Aug 27.

A SYSTEM OF STILES,

AS NOW PRACTISED

Within the KINGDOM of *SCOTLAND*,

Consisting of SIX PARTS.

VOLUME II.

Containing the last THREE PARTS,

VIZ.

IV. What Letters pass the Signet, and such Precepts in Latin as upon Signatures pass also the Signet and whole Seals, except the Quarter-seal, and what Tes the Great Seal *per saltum*.

V. All Securities, Contracts of Marriage, Tailzies, Mortifications, Liferent-rights, Provisions of younger Children, Excambions, and the like.

VI. Services, Tutories, Summonses of Error, and others.

By GEORGE DALLAS of SAINT-MARTINS.

EDINBURGH:

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Rec. July 6 1883.

To the Commiſſioners of, and Writers to his Majeſty's Signet; *George Dallas* of *St Martins*, and one of the Fraternity, Author of the whole Work, (whereof this is the *fourth Part*,) wiſheth all Proſperity and Happineſs.

My dear Brethren,

THE many diverſions and avocations I had by ſeveral ſtations, to which by Providence I was called, and my intereſt, beſides my employments, being ſo many obligations upon me to go to the Northern parts of the kingdom, once, and ſometimes twice a year, did allow of your number more time, than I could goodly propoſe to myſelf, to interpriſe and accompliſh a work of this nature, and no doubt might have juſtly acclaimed no leſs propriety in it: But, after ſo many years patience, finding none like to do it, and my years increaſing, I judged myſelf, by many ties and obligations, obliged to leave a teſtimony to the preſent and future ages, of the ſentiments I have of the ſingular kindneſs and advantages I was tryſted with, from perſons of all ranks and quality in this age, and particularly from you, who treated me not only as a brother, and ſon in the ſociety, but alſo paid me deference beyond my merit: And in remuneration, have dedicate this, *being the fourth PART, and conſiſting of four branches*, to you my brethren; and whereas I am informed, the whole work, by its method and advantage thereby accruing to all perſons, may prejudge the calling, I muſt ſay, it was never ſo intended, and cannot have that effect; and many of the more intelligent, both of Lords of Seſſion, lawyers, and even of your own number, were of the contrary opinion when I diſcourſed with them upon it; for it is an infallible principle, that ſpeculative knowledge, or bare theory of matters, without the practical, is of ſmall value, and will never produce the true effects; whereas, all conjoined, makes a complete man in fewer years than formerly in many. And to conclude,

conclude, I am hopeful you will be ſo charitable as to believe, I have no other intention than the good of all, without prejudice to any; and, to put matters out of doubt, I queſtion not but ſome of my own ſons will ſucceed me in my own ſtation, and were it not ſo, a public good ſhould ever be preferred to private intereſt, and ſo I ſubſcribe myſelf,

Your moſt affectionate brother and ſervant,

GEO. DALLAS.

OF THE

AUTHOR's SYSTEM of STILES.

PART IV.

1. *Of all letters and others, ſummons excepted, and whereof he has already treated in the third part, that paſs the ſignet only.*
2. *Of what ſignatures paſs in exchequer, the precepts whereof paſs the whole ſeals, and their divers kinds, natures and forms, whether by confirmation, reſignation, appriſing, adjudication, either in the creditor's name or his aſſignee, recognition,* ultimus hæres, *baſtardy, forfeiture or otherwiſe; and whether they contain diſſolutions, and new erections of Earldoms, Lordſhips, baronies, tenandries, with clauſes* de novo damus, *diſpenſations for taking ſeiſin at one place for the whole, erections in regalities, burghs of baronies, taxing of ward-lands, and the like.*
3. *Of what paſſes the whole ſeals, that of the quarter-ſeal excepted, and yet not paſt in exchequer, as archbiſhopricks and biſhopricks:*
4. *Of what commiſſions, remiſſions, approbations, and others that paſs the Great Seal* per ſaltum, *and no other ſeal or regiſter, except the regiſter at the chancellary, wherein they muſt be recorded, and that, by an expreſs warrant from the King* in gremio: *And ſo I begin firſt with letters paſſing the ſignet, whereof there be ſome in the firſt part of the ſyſtem, and to be found out by the index.*

Letters paſſing the ſignet, beſides thoſe in the firſt part of the work, called *real and perſonal diligence*, and alſo named in the ſame *index*.

CAPTION *upon a Horning on a moveable Bond.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by G. D. of that where, upon the day of laſt by paſt, A. B. of and C. D. of were orderly denounced rebels, and put to the

the horn, by virtue of letters of horning, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to him of the ſum of Scots money of principal, with the ſum of money foreſaid of liquidate expences, and annualrent of the ſaid principal ſum, contained in a bond made and granted by the ſaid A. B. as principal, and the ſaid C. D. as cautioner for him to the ſaid complainer thereupon, of the date the day of 17 years, regiſtrate in the books of Council and Seſſion, the day of years, as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion have teſtified, under the proceſs of which horn, the ſaid A. B. and C. D. rebels aforeſaid, have continually lien and abidden ſinſyne, and yet daily and continually haunt, frequent, reſort, and openly repair to kirks, markets, (here follow forth the ſtile of the former caption in the firſt part of the work, *page* 17. and conclude the ſame as therein, and remember the date of the bill muſt be the date of the letters.

Ex deliberatione Dominorum Concilii.

Nota, After this I omit all bills, ſeeing the letters, being inſert, will be a rule to write the bill, and this I do *brevitatis cauſa*, to evite prolixity.

LETTERS *of Horning and Poinding, at the Inſtance of the Creditor, againſt the Debtors, upon a Heritable Bond, where there is no Requiſition thereby provided, but* (e contra) *the Debt payable without Requiſition, to be found in the Index of this Part, not the firſt Part as the former Letters are, and has no Bill, becauſe the Bond bears Days.*

GEORGE, *&c.* to meſſengers, *&c.* greeting: Foraſmuchas, A. B. of by his heritable bond, dated the day of and years (6) granted him to have borrowed and received from G. D. of at the term of preceding, notwithſtanding of the date thereof, all and haill the ſum of uſual money of this realm, and for ſecurity whereof, he bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid G. D. his heirs and aſſignees whatſomever heritably, in all and haill an annualrent of money aforeſaid (8) as the preſent annualrent of the ſaid principal ſum, (or in any other annualrent) leſs or more, effeiring and correſponding thereto, that by the laws and acts of parliament of this kingdom, ſhall happen to be eſtabliſhed within the ſame for the future, yearly to be upliſted, and taken at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, forth of all and haill the ſaid A. B. his lands of (here inſert the lands as in the bond, and then ſay) or any part or portion thereof, and readieſt maills, farms, kains, cuſtoms, caſualities, profits and duties of the ſame, and that by

double

double infeftments and manner of holding, to be held with warrandice, and under reverſion, in manner ſpecified in the ſaid bond, and of the which annualrent the ſaid A. B. as principal, and C. D. of as cautioner for him, bound and obliged them conjunctly and ſeverally, their heirs, executors and ſucceſſors, to make good and thankful payment to the ſaid G. D. and his aforeſaid, at the ſaid terms, and by equal portions as ſaid is, beginning the firſt term's payment thereof at the term of then next to come, for the term immediately preceding, and ſo forth yearly and termly thereafter at the ſame terms, and by equal portions in manner aforeſaid, during the not-redemption of the ſaid annualrent, by virtue of the reverſion contained in the ſaid bond, with the ſum of money above-written of liquidate expences in caſe of failzie, for every one of the ſaid terms, and that by and attour the ſaid annualrent, and together therewith, (7) and in caſe it ſhould pleaſe the ſaid G. D. or his foreſaids; rather deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity above-mentioned, then, and in that caſe, the ſaid principal and cautioner bound and obliged them conjunctly and ſeverally, and their foreſaids, to have made payment to them thereof, at the term of 17 and years, or at any other term or time thereafter, the ſaid G. D. or his foreſaids pleaſed, and that by any requiſition, to be made of before to them for that effect, with the ſum of money foreſaid of liquidate penalty in caſe of failzie; and that by and attour the ſaid principal ſum, and together therewith, as the ſaid heritable bond of the date aforeſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, (9) upon the day and date of thir preſents, ordaining thir our letters to be directed thereupon in manner under-written, at more length proports: Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. as principal, and the ſaid C. D. as cautioner for him, conjunctly and ſeverally, perſonally, or at their dwelling-places, to make payment to the ſaid G. D. of the ſaid ſum of money aforeſaid of principal, with the ſaid ſum of money above-written, of liquidate penalty, together with the ordinary annualrent of the ſaid principal ſum, of all years and terms bygone, reſting owing unpaid; and ſicklike yearly and termly in time coming, during the not-payment thereof, with the ſaid ſum of of liquidate penalty for each term's failzie in not-payment of the ſaid annualrent, the terms of payment of the ſame being firſt come and bygone, after the form and tenor of the ſaid heritable bond, and decreet interponed thereto, in all points, within days, (here fill up the days contained in the bond, whether ſix, ten or fifteen) next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn, (after this follow forth the ſtile of the horning in the firſt part of the work, *page* 14. *and conclude with*, According to juſtice, as ye will anſwer, *&c.*

Per decretum Dominorum Concilii.

Nota,

Nota, Theſe particulars are to be obſerved, I. The date of the regiſtration of the heritable bond is to be the date of thir letters. II. If the bond have not days ſuch as ſix, ten, or fifteen, but in form as effeirs, then it muſt have a bill to ſupply that defect, and in that caſe admits of thoſe alterations, whereas, above the will, it ſays, that the bond is regiſtrate upon the day and date of thir preſents, ye muſt, in place of theſe words, condeſcend upon the day, month and year, and next in the bill, in place of theſe words in the former letters at more length proports, ye may ſay, preſent to ſhew bears, for the bill, by production of the bond, muſt be inſtructed; and in that caſe, after the words according to juſtice, ye muſt add theſe words, becauſe the Lords have ſeen the regiſtrate bond above-written; and then ſay, as ye will anſwer, *&c.* And add, in place of *per decretum, ex deliberatione Dominorum Concilii*, and remember that the date of the bill muſt be the date of thir letters, and that thir letters muſt bear to make payment of the ſums within fifteen days, which the law appoints, when the bond bears no ſpecific days, as ſix, ten, or fifteen *ut ſupra*; and in caſe any of the debtors be out of the kingdom, they muſt be charged on ſixty days at Edinburgh croſs and pier of Leith, and paſſes by bill; and laſtly, whereas the former letters, becauſe they want a bill, bear, foraſmuchas, A. B. by his heritable bond, *&c.* in thir letters, becauſe they have a bill, ye muſt ſay, foraſmuchas, it is humbly meant and ſhown to us by G. D. of that where A. B. of by his heritable bond, dated the, *&c.* as in the former draught, only throughout all the letters, after firſt naming of the creditor, call him complainer, and not by his name, becauſe there is a bill as ſaid is, and let this method be obſerved in all ſuch caſes, and to which I refer you.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us, by G. D. of that where, upon the day of laſt bypaſt, A. B. of and C. D. of were orderly denounced rebels, and put to the horn, by virtue of letters of horning, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to him of the ſum of Scots money of principal, and of the ſum of money aforeſaid of liquidate expences incurred through not-payment thereof, together with the ordinary annualrent of the ſaid principal ſum, and the ſum of money above-written of liquidate penalty for every term's failzie in not-payment of the ſaid annualrent, ſpecified and contained in an heritable bond granted by the ſaid A. B. as principal, and the ſaid C. D. as cautioner for him, conjunctly and ſeverally, to the ſaid complainer thereupon, of the date the day of and years, regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, as the ſaid letters of horning, and executions thereof duly regiſtrate, conform to the act of parliament, ſhown to our Lords of Council and Seſſion have teſtified, under the proceſs of which horn, the ſaid A. B. and C. D. rebels foreſaid, have continually lien and abidden ſinſyne, and yet daily and continually haunt, frequent, reſort, and openly repair to kirks, markets, and other private and public places and companies within this kingdom, as if they were free perſons therein, and no ſuch proceſs of horning led and deduced againſt them,

in

in the ſaid matter, in high contempt of us, our authority and laws, and in evil example to others to commit the like in time coming, without remeid be provided thereto, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſheriffs of the ſheriffdoms of the provoſt and bailies of the burghs of the bailies of the regalities and ſtewardries of and all other judges ordinary within this our realm, and all their deputes, and alſo meſſengers at arms, our ſheriffs in that part, to paſs, ſearch, ſeek, take and apprehend the ſaid A. B. and C. D. rebels foreſaid, where-ever they may or can be apprehended, within the bounds of their offices and juriſdictions, and being apprehended therein, to put, keep, detain and with-hold them in ſure ward, firmance and captivity within their tolbooths, and others, their warding places, and not to ſuffer them to eſcape forth thereof, but conſtantly to remain and abide therein, upon their own proper charges and expences, ay and while they have fulfilled and obeyed the command and charge of our ſaid letters of horning, and be orderly freed and relaxed from the proceſs of horning therein contained; and that within three days next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn, with certification to them if they faill, our other letters will be direct, charging them thereto *ſimpliciter*, and if thir our letters be put to execution within the burgh of Edinburgh, that the concurrence of the magiſtrates thereof be had and obtained thereto, according to juſtice, becauſe the Lords have ſeen the regiſtrate horning above-written; as ye will anſwer to us thereupon, (conclude in the ordinary way, but let the date of the bill be the date of the letters,) and then ſay,

Ex deliberatione Dominorum Concilii.

LETTERS *of Horning and Poinding on an heritable Bond, for Payment of the Annualrent and termly Penalties, albeit the Payment of the principal Sum be ſuſpended for ſome Years.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* greeting; foraſmuchas, A. B. of by his heritable bond, of the date the day of and years; (here take in the narrative of the former horning from the 6 figure to the 7 figure, and then ſay) as the ſaid heritable bond of the date foreſaid, inſert and regiſtrate in our books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents; ordaining thir our letters to be direct thereupon, in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. as principal, and the ſaid C. D. as

cautioner, conjunctly and severally, personally, or at their dwelling-places, to make payment to the said G. D. of the annualrent of the said principal sum of all years and terms bygone, resting, owing, unpaid, and sicklike, yearly and termly in time coming, during the not-payment thereof, with the said sum of money foresaid of liquidate penalty, for each term's failzie in not-payment of the said annualrent, the terms of payment of the same being first come and bygone, after the form and tenor of the said heritable bond and decreet interponed thereto, in all points, and but prejudice always to the said G. D. and his foresaids, of the said principal sum itself, and all diligence and execution competent, or that may be competent therefor, at the term of payment thereof specified in the said bond, or at any other time thereafter they please; and for the penalty therein contained if incurred, conform to the tenor thereof also in all points, within days, (which is to be filled up also, according to the bond) next after they be charged by you thereto, under the pain of rebellion. (After this conclude the horning and poinding, according to the stile in the first part of the work, *page* 14. only let the date of the registration of the bond be the date of the letters, and then say,)

Per decretum Dominorum Concilii.

CAPTION *upon the said Horning.*

GEORGE, *&c.* to *&c.* messengers, *&c.* meaned and shown to us by G. D. of that where, upon the day of last bypast, A. B. of and C. D. of were orderly denounced rebels, and put to our horn, by virtue of letters of horning, raised, used and execute against them at the instance of the said complainer, for not-payment making to him of the annualrent of the principal sum of Scots money, resting from the term of 17 and years, to the term of last bypast, with the sum of money foresaid of liquidate penalty, for each term's failzie in not-payment of the said annualrent, conform to an heritable bond, granted by the said A. B. as principal, and the said C. D. as cautioner for him, conjunctly and severally to the said complainer thereupon, of the date the day of and years, registrate in the books of Council and Session the day of and years, as the said letters of horning, with the executions thereof duly registrate, conform to the act of parliament shown to our Lords of Council and Session, have testified; under the process of the which horn, the said A. B. and C. D. rebels foresaid, have continually lien and abidden sinsyne, and yet daily and continually haunt, frequent, resort, and openly repair to kirks, markets. (After this follow forth the stile of the caption in this part, *page* 8. only let the date of the bill be the date of the letters, and then say,)

Ex deliberatione Dominorum Concilii.

HORNING

HORNING *and Poinding on an heritable Bond bearing Requiſition; and according to which Requiſition was made.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by G. D. of that where, A. B. of by his heritable bond, dated the day of and years; granted him to have borrowed and received from the ſaid complainer, at the term of preceding, notwithſtanding of the date thereof, all and haill the ſum of uſuſal money of this realm; and for ſecurity whereof, he bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeize the ſaid complainer, his heirs and aſſignees whatſomever, heritably, in all and haill: (here take in the narrative of the horning in this part, *page* 6. from the figure 8 to the 7 figure, and then ſay) and in caſe it ſhould pleaſe the ſaid complainer, or his foreſaids, rather deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity above-mentioned; then, and in that caſe, the ſaid principal and cautioner bound and obliged them conjunctly and ſeverally, and their foreſaids, to have made payment to them thereof at the term of even 17 and years, or at any other term of Whitſunday even, or Martinmas even, (this muſt be always ruled by the bond as to the terms) thereafter they pleaſed upon lawful requiſition of days, of before, (which alſo muſt be ruled by the bond) to be made by them to the ſaid principal and cautioner, and their foreſaids for that effect perſonally, or at their dwelling places for the time, in preſence of a notar and witneſſes as effeirs, with the ſum of money foreſaid of liquidate penalty in caſe of failzie, and that by and attour the ſaid principal ſum, annualrents thereof reſting for the time, termly penalties thereof above-ſpecified, and together therewith, as the ſaid heritable bond of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day of and years; ordaining thir our letters to be direct thereupon in manner under written, ſhown to our Lords of Council and Seſſion has teſtified. And conform to the which bond and clauſe of requiſition therein contained, the ſaid complainer upon the day of laſt bypaſt, lawfully required the ſaid principal and cautioner, to make payment to him of the ſaid principal ſum, at the term of even then next to come, now alſo laſt bypaſt, with the annualrents that ſhould be then reſting, and termly penalties above expreſſed; and proteſted, that if they failed therein, they ſhould be liable in payment to him, and incur the ſaid penalty of money above-written, conform to the ſaid bond and clauſe of requiſition therein contained in all points, as authentic inſtruments taken thereupon, in the hands of J. M. notary-public; likewiſe ſhown to the ſaid Lords have teſtified. And albeit it be of verity, that lawful requiſition was made to the ſaid principal and cautioner in manner foreſaid, and that the ſaid complainer has oft and diverſe

times, desired and required them to make payment to him of the said principal sum, with the annualrents thereof, termly failzies and penalty above-mentioned, as incurred by them through not timeous payment as said is; nevertheless, they wrongously refuse, postpone and defer to do the same, without they be compelled as is alledged. Our will is herefore, and we charge you strictly, and command, that incontinent thir our letters seen, ye pass, and in our name and authority, command and charge the said A. B. as principal, and the said C. D. as cautioner, conjunctly and severally, personally, or at their dwelling places, to make payment to the said complainer, of the said sum of money foresaid of principal, with the ordinary annualrent thereof, of all years and terms bygone, resting, owing, unpaid and sicklike, yearly and termly in time coming, during the not-payment thereof; as also, to make payment to him of the termly failzies and penalty above-mentioned, incurred by them through not timeous payment thereof, the terms of payment of the said annualrent being always first come and bygone, after the form and tenor of the said heritable bond, decreet interponed thereto, and instrument of requisition made conform to the same in all points, within days, (which is to be ruled by the bond,) next after the charge, under the pain of rebellion, and putting of them to our horn, (after this follow forth the stile of the other horning and poinding, only after the words of the poinding, when ye write after the form and tenor of the said bond, decreet interponed thereto, add, and instrument of requisition in all points, and then conclude with) according to justice, because the Lords have seen the registrate bond, and instrument of requisition above-written, as ye will answer to us thereupon, *&c.* (And let the date of the bill be the date of the letters.)

Ex deliberatione Dominorum Concilii.

Nota, That in case the bond have not days, but in form as effeirs, thir letters must be on fifteen days. II. If the debtors be forthwith the kingdom, the requisition must be used at Edinburgh Cross, and Pier of Leith on sixty days, by a supplement which ye will find in the index of this part of the work, and not at their dwelling-house or upon fewer days, albeit the bond bears so.

CAPTION *on the said Horning.*

GEORGE, *&c.* to *&c.* messengers, *&c.* meaned and shown to us by G. D. of that where, upon the day of last bypast, A. B. of and C. D. of principal and cautioner after specified, were orderly denounced rebels, and put to our horn, by virtue of letters of horning, raised, used and execute at the instance of the said complainer against them, for not-payment making to him of the sum of Scots money of principal, with the sum of money foresaid of expences and annualrents of the said principal sum, together with the sum of money above-written, for each term's failzie in not

not-payment of the ſaid annualrent, conform to an heritable bond granted by the ſaid A. B. as principal, and the ſaid C. D. as cautioner, conjunctly and ſeverally to the ſaid complainer thereupon, of the date the day of 17 and years, regiſtrate in the books of Council and Seſſion the day of laſt bypaſt; and which bond, bears a clauſe of requiſition towards the payment of the ſaid principal ſum, and conform whereunto, the ſaid complainer upon the day of laſt bypaſt, lawfully required the ſaid principal and cautioner, to have made payment to him of the ſaid principal ſum, at the term of even then next to come, now alſo laſt bypaſt, with the annualrents that ſhould happen to be then reſting, and termly failzies thereof; and proteſted, that if they failed therein, they ſhould be liable for, and incur the ſaid penalty of money above-written, attour the ſaid ſums; and together therewith, and authentic inſtruments taken thereupon, in the hands of J. M. notary-public, as the ſaid letters of horning, and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion, has teſtified; under the proceſs of the which horning, the ſaid A. B. and C. D. rebels foreſaid, have continually lien and abidden ſinſyne; and yet daily and continually haunt, frequent, reſort, and openly repair to kirks, markets; (after this, follow forth the ſtile of the former caption *uſque ad finem*, and let the date of the bill be the date of the letters, and ſo conclude with,)

Ex deliberatione Dominorum Concilii.

HORNING *and Poinding on an heritable Bond, for Payment of the haill Sums, albeit the Term of Payment of the principal Sum, at firſt prefixed by the Bond be not come, and that becauſe by a Proviſion in the Bond, in caſe any other uſed real Diligence, or Annualrents not paid, ſo as two Terms run in the third, or the like, then the Debtor is bound to pay the haill Sums after any ſuch real Diligence or Failure, and ſubſumes in the Terms of the Bond, that real Diligence is uſed by another Creditor, and Annualrents not paid.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us, by G. D. of that where, A. B. of by his heritable bond, of the date the day of and years, (here take in the narrative of the horning, *page* 6, from the 6 figure till ye come to the 7 figure, and then ſay), and in caſe it ſhould pleaſe the ſaid complainer, or his foreſaids, rather deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity abovementioned, then, and in that caſe, the ſaid principal and cautioner bound and obliged them, conjunctly and ſeverally, and their foreſaids, to have made payment to them thereof at the term of even, 17 and years, or at

at any other term of Whitſunday even, or Martinmas even, (this muſt be always ruled by the bond as to the terms) thereafter they pleaſed upon lawful requiſition of days of before, (which alſo muſt be ruled by the bond), to be made by them to the ſaid principal and cautioner, and their foreſaids for that effect, perſonally, or at their dwelling places for the time, in preſence of a notar and witneſſes as effeirs, with the ſum of money foreſaid of liquidate expences in caſe of failzie, and that by and attour the ſaid principal ſum, annualrents thereof reſting for the time, termly penalties thereof above-ſpecified, and together therewith, and however the payment of the ſaid principal ſum be ſuſpended, until the ſaid term of even, years, yet in caſe any other perſon or perſons who were or might be creditors to the principal and cautioner, or either of them, ſhould happen to uſe real or perſonal diligence againſt them, or their foreſaids, at any time before the ſaid term, ſo that the complainer or his foreſaids, by the ſuſpenſion and continuation above-ſpecified, merely done out of favour, might be prejudged of their juſt debt, or in caſe the ſaid principal and cautioner, or their foreſaids ſhould happen to fail and be deficient in punctual payment of the ſaid annualrent termly as ſaid is, or at leaſt ſuffer two terms to run in the third, and the annualrent not paid, then and in either of theſe caſes it ſhould be lawful to, and in the power of the ſaid complainer and his foreſaids, to uſe diligence real and perſonal upon the ſaid bond for payment of the foreſaid ſums, even as if the term firſt prefixed were elapſed, and requiſition made accordingly; and now as then, and then as now, the ſaid principal and cautioner, bound and obliged them conjunctly and ſeverally, and their foreſaids, to make payment to the ſaid complainer and his foreſaids, of the ſaid principal ſum, annualrents thereof, and termly penalties incurred, and that immediately upon any ſuch diſtreſs againſt them, from any other creditor or creditors of theirs, and intimation made by the complainer or his foreſaids, to them and their foreſaids thereof; or upon their failing in punctual payment of the ſaid annualrent termly as ſaid is, or at leaſt their ſuffering two terms to run in the third in manner above expreſſed, with the ſaid ſum of money foreſaid of liquidate penalty in caſe of failzie, and that by and attour the payment of the other ſums, principal, annualrents and termly failzies above-mentioned; and together therewith, as the ſaid heritable bond of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof, interponed thereto, upon the day of laſt bypaſt, ordaining thir our letters to be direct thereupon in manner after-ſpecified, ſhown to our Lords of Council and Seſſion, has teſtified. And true it is, that there being diligence by horning and adjudication, uſed againſt the ſaid principal and cautioner, at the inſtance of H. D. of one of their creditors, the ſaid complainer made due and lawful intimation to them thereof, and proteſted they were liable in payment to him of the ſaid haill ſums, conform to the ſaid poſterior clauſe and obligement, contained in the ſaid bond; notwithſtanding, the term at firſt prefixed, and given out of favour, was not yet come, as authentic inſtruments taken thereupon, in the hands of J. H. notary-public, alſo ſhown to our ſaid Lords of Council and Seſſion have teſtified; nevertheleſs, they wrongouſly refuſe,

poſtpone

poſtpone and defer to make payment to the ſaid complainer of the ſaid ſums, without they be compelled as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority command and charge the ſaid A. B. as principal, and the ſaid C. D. as cautioner, conjunctly and ſeverally, perſonally, or at their dwelling places, to make payment to the ſaid complainer, of the ſaid ſum of money foreſaid of principal, with the ordinary annualrent thereof, of all years and terms bygone, reſting, owing, unpaid; and ſicklike, yearly and termly in time coming, during the not-payment thereof, the terms of payment of the ſame, being always firſt come and bygone; together alſo with the termly failzies and penalty above-mentioned, contained in the ſaid heritable bond after the form and tenor thereof, decreet interponed thereto, and inſtrument of intimation above-ſpecified in all points, within days, to be regulate by the bond, next after the charge, under the pain of rebellion, and putting of them to our horn. (After this follow forth the ſtile of the letters according to the former ſtile, only after the poinding, let the (after the former and tenor be *ut ſupra*, and then ſay) according to juſtice; becauſe the Lords have ſeen the regiſtrate bond and inſtrument of intimation above-written, as ye will anſwer to us thereupon, *&c.* And let the date of the bill be the date of the letters, and conclude with,

Ex deliberatione Dominorum Concilii.

Nota, It is fit the intimation be made before regiſtration of the bond, for till then execution is not competent.

Nota, If two terms run in the third, and the annualrents not paid, the like horning and poinding may be raiſed for the whole ſums, being the other alternative in the bond, and there is no alteration, but to ſubſume that the annualrents are for ſuch terms reſting, and the firſt alternative, as to diligence from other creditors, and inſtrument of intimation, may be omitted all alongſt; nor did I ever ſee any bond with this quality, except one or two, and the ſum was conſiderable.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by G. D. of that where, upon the day of A. B. of and C. D. of were orderly denounced rebels, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to him of the ſum of Scots money of principal money foreſaid of expences, and annuals of the ſaid principal ſum, with the ſum of money above-written, for each term's failzie thereof, contained in an heritable bond made and granted by the ſaid A. B. as principal, and the ſaid C. D. as cautioner for him, conjunctly and ſeverally to the ſaid complainer, thereupon, of the date the day of years,

years, whereby they obliged themſelves conjunctly and ſeverally; notwithſtanding of the continuation of the payment of the ſaid principal ſum, till a certain term yet to come, yet if any other of their creditors, uſed diligence real or perſonal againſt them for a debt then due, or to be contracted by them; that then, and in that caſe, they ſhould pay to him the ſaid principal ſum, annualrents and termly failzies, upon intimation made to them by him of any ſuch diſtreſs, with the ſaid ſum of money foreſaid of penalty in caſe of failzie, and that by and attour the ſaid other ſums, and together therewith: And accordingly they being diſtreſſed, and diligence uſed againſt them by one of their creditors, there was lawful intimation made to them thereof under form of inſtrument, in the hands of J. M. notary-public, upon the day of and which heritable bond is regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day of as the ſaid letters of horning, and executions thereof duly regiſtrate, conform to the act of parliament ſhown to the ſaid Lords have teſtified: under the proceſs of the which horn, the ſaid A. B. and C. D. rebels foreſaid, have continually lien and abidden ſinſyne, and yet daily haunt, frequent, reſort, and openly repair to kirks, markets, *&c.* (After this follow forth the ſtile of the former caption, page 12 *uſque ad finem*, only let the date of the bill be the date of the letters, and conclude with,)

Ex deliberatione Dominorum Concilii.

INHIBITION *on the ſaid heritable Bond, which bears not Requiſition.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us, by G. D. of that where, A. B. of by his heritable bond, of the date the day of years, granted him to have borrowed and received from the ſaid complainer, at the term of preceding, notwithſtanding of the date thereof, all and haill the ſum of Scots money, and for ſecurity thereof, bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeize the ſaid complainer, his heirs and aſſignees whatſomever heritably, in all and haill an annualrent of money foreſaid, (here take in the narrative of the horning from the figure (8) to the figure (9) in this part, *page* 6. and then ſay) upon the day of years, ordaining letters to be direct thereupon in manner therein ſpecified, ſhown to our Lords of Council and Seſſion has teſtified, and the ſaid principal and cautioner knowing perfectly, that the ſaid complainer is to ſuit all manner of execution, both perſonal and real againſt them, upon the ſaid heritable bond, for implement thereof, and payment making to him of the foreſaid ſums therein contained, they, in manifeſt defraud, hurt and prejudice of him thereanent, intend, as he is informed, to ſell, annalzie, wadſet, diſpone, *&c.* (after this follow forth the ſtile of the inhibition, ſee firſt part of the work, *page* 26 *uſque ad finem*, with theſe two alterations. 1. In place

place of theſe words, in the former, anent the implement and fulfilling to the ſaid complainer of the bond, decreet, and bond of cautionry, in the will, ye muſt ſay in this, anent the implement and fulfilling to the ſaid complainer of the ſaid heritable bond, and payment making to him of the foreſaid ſums of money principal, annualrents, termly failzies, and expences above ſpecified therein contained. 2. After according to juſtice, ſay only, becauſe the Lords have ſeen the regiſtrate bond above-written, as ye will anſwer, *&c.* and make the date of the bill the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, As a rule for inhibitions upon all heritable bonds, whether by way of annualrent out of lands, or by an obligement to infeft in the lands themſelves, or that they bear the obligement of payment upon requiſition, or in the other caſe above-mentioned of diligence uſed by other creditors, or failing in payment of the annualrent, there is no difficulty, if ye make a faithful narrative, whether in all, or either of the ſaid caſes, according to the ground thereof; and as to the remaining part of the inhibition, it goes in courſe, only theſe words anent the implement, let it be according to the ground upon which raiſed, and after, according to juſtice, inſert the becauſe according to the deliverance on the back of the bill, the date whereof muſt be always the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

HORNING *and Poinding on a Contract of Wadſet after Requiſition.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by M. J. B. of that where, Q. by the contract of wadſet made and paſt betwixt C. M. of heritable proprietor of the lands and others after-ſpecified on the one part, and the ſaid complainer on the other part, of the date the day of 17 years, the ſaid C. M. for the ſum of Scots money, then advanced, paid and delivered to him by the complainer, ſold, annalzied, wadſet and diſponed to the ſaid complainer, and to his heirs and aſſignees therein-ſpecified whatſomever heritable, all and haill (here inſert the lands and others contained in the diſpoſitive clauſe, and then ſay,) and bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeize the ſaid complainer and his foreſaids heritably therein, by double infeftments and manner of holdings to be holden with warrandice, and under reverſion, in manner ſpecified in the ſaid contract, which contains divers other obligements, articles and clauſes, conceived in favour of the ſaid complainer and his foreſaids; and particularly, that in caſe it ſhould pleaſe the ſaid complainer and his foreſaids, rather deſire to have the ſaid principal ſum of money foreſaid repaid to them, than to retain the ſecurity and wadſet above-mentioned, then and in this caſe, the ſaid C. M. bound and obliged him and his foreſaids, to have made payment to the ſaid complainer and his foreſaids thereof, at the term of even, 17, *&c.* and years, or at any other term of even thereafter they pleaſed, upon

on lawful requiſition of days of before, to be made by the ſaid complainer or his foreſaids to them for that effect, perſonally, or at their dwelling places for the time, in preſence of a notary and witneſſes as effeirs, with the ſum of money above-written of liquidate expences in caſe of failzie; and that by and attour the ſaid principal ſum, and together therewith, as the ſaid contract of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of our Lords thereof interponed thereto, upon the day of ordaining thir our letters to be direct thereupon in manner after-ſpecified, ſhown to the ſaid lords has teſtified, and conform to the which contract and clauſe of requiſition therein contained, the ſaid complainer, upon the day of laſt bypaſt, lawfully required the ſaid C. M. to provide, and have in readineſs the ſaid principal ſum of money foreſaid, againſt the term of even then next to come (4) and to make payment to him then thereof (6) and proteſted, that if he failzied therein, he and his foreſaids ſhould be liable for, and in payment of the ſaid penalty of money foreſaid, contained in the ſaid clauſe of requiſition, attour the payment of the ſaid principal ſum, and together therewith, as authentic inſtruments taken thereupon in the hands of notary-public, alſo ſhown to our ſaid Lords of Council and Seſſion have teſtified (5) And albeit it be of verity, that requiſition was lawfully made as ſaid is, and that the term be elapſed, and that the ſaid complainer has oft and divers times deſired and required the ſaid C. M. to have made payment to him of the ſaid principal ſum, (7) and penalty aforeſaid incurred by him, through not timeous payment thereof; nevertheleſs, he wrongouſly refuſes, poſtpones and defers to do the ſame, without he be compelled, as is alledged. *Our will is herefore*, and we charge you ſtrictly and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. M. perſonally, or at his dwelling-place, to make payment to the ſaid complainer of the ſaid ſum of money foreſaid of principal, (8) with the ſaid ſum of money above-written of liquidate penalty, incurred by him through not timeous payment thereof, after the form and tenor of the ſaid contract of wadſet, decreet interponed thereto, and inſtrument of requiſition above-ſpecified, in all points, within days, to be ruled according to the days of the contract, and if no ſpecific days therein, but in form as effeirs, make it fifteen days, next after he be charged by you thereto, under the pain of rebellion, and putting of him to our horn; after this, follow forth the ſtile of an ordinary horning and poinding, till ye come to theſe words, after the poinding, after the form and tenor, and then ſay, after the form and tenor of the ſaid contract of wadſet, decreet interponed thereto, and inſtruments of requiſition above-ſpecified, in all points, according to juſtice, becauſe the Lords have ſeen the regiſtrate contract of wadſet, and inſtrument of requiſition above-written, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota,

Nota, Some contracts of wadſet bear in the clauſe of requiſition, not only the payment of the principal ſum, but alſo of that term's annualrent to which requiſition ſhall be uſed, and the reaſon is good, becauſe the wadſetter gets not that crop and year's duty wherein requiſition is uſed, and if that clauſe be in it, inſert the ſame after this (6) figure, and likewiſe at the figure of (7) in the ſubſumption, and at the figure of (8) in the will.

Nota, Some contracts of wadſet bear the biggings or buildings to be valued at the wadſetter's entry, to a certain ſum, and if meliorate, the heritor bound to pay the melioration to the wadſetter, who, at his removal, cauſes compriſe the bigging, and by which the melioration is known, and if the contract be ſo conceived, it is fit after this (5) figure, both the appriſings be mentioned, and in effect produced with the bill (as the warrant of the letters in the terms of the contract) and without which (as to that part) there can be no ſpecial charge, and it is probable the words of the contract may be theſe; and it is hereby agreed, that as the biggings of the ſaid lands is now appretiate to the ſum of M. Scots money, ſo if it ſhould happen the ſaid complainer to meliorate the ſame, and ſo found by the eſtimation of honeſt men, then and in that caſe, the ſaid C. M. binds and obliges him to make payment to the ſaid M. J. B. and his foreſaids, of the ſaid melioration at the term of the redemption, and ſome contracts bear the ſaid melioration, not exceeding the ſum of Scots money, which is a ſtenting and taxing of the general clauſe, and without which, the wadſetter might for his own accommodation, if not out of prejudice, ſpend a great deal of money; but as to this point, I refer you ſtill to the contract, which muſt be the rule, in the one caſe or other, and would be ſo preciſely obſerved by the writer who ſubſcribes, and muſt be anſwerable for the formality and legality of bill and letters, and ſuppoſing the clauſe aforeſaid may be in the contract, as the laſt appriſing of the buildings muſt be immediately after the term, to which requiſition is uſed, ſo ye would write that part of the horning, and ſubjoin the ſame immediately to that clauſe of the contract, thus, and conform to which agreement and obligement, the biggings of the ſaid lands were at the complainer's entry appretiate to the ſum of money foreſaid, and after the ſaid term, to which requiſition was uſed in manner foreſaid, the ſame were of new appretiate by honeſt men, to the ſum of money above-written, whereby it is clear the melioration amounts and extends to the ſum of money above-ſpecified, as both the ſaid appretiations likewiſe ſhown to the ſaid Lords have teſtified.

Nota, If a term's annualrent be due, let it be mentioned at the 4 figure.

Nota, In the caſe foreſaid, both in the ſubſumption of bill and letters, add the ſum of the melioration after the annualrent, and before the penalty, at the 7 and 8 figures.

CAPTION *upon the ſaid Horning for principal Sum, Terms Annualrent and Melioration, with the Penalty, ſuppoſing the Annualrent and Melioration may be due, and in the Horning, and charged for.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by M. J. B. of that where, upon the day of laſt bypaſt, C. M. of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not-payment making to him of the ſum of Scots money of principal, for which the ſaid C. M. wadſet to him the lands of

in manner ſpecified, in the contract of wadſet after mentioned, with the term's annualrent thereof, to which requiſition was made in manner after expreſſed, and of the ſum of money foreſaid, due for the melioration of the ſaid bigging, with the ſum of money above written, of liquidate penalty, ſpecified and contained in a contract of wadſet, made and paſſed between them thereanent, of the date the day of years, regiſtrate in the books of Council and Seſſion, the day of 17 years, and in the appretiation made anent the ſaid melioration, dated the day of alſo laſt bypaſt, and inſtrument of requiſition made conform to the ſaid contract, for payment of the ſaid ſums upon the day of to the term of even, then next to come, now laſt bypaſt, as the ſaid letters of horning, and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion, have teſtified, under the proceſs of the whilk horn, the ſaid C. M. rebel foreſaid, has continually lien and abidden ſinſyne, and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* after this follow forth the ſtile of an ordinary caption *uſque ad finem*, only let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, If there be no term's annualrent nor melioration obliged to, by the contract, omit them in bill and letters, which is an eaſy alteration.

INHIBITION *upon the ſaid Contract and Grounds.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us, by M. J. B. of that where (here take in the narrative of the former horning and poinding from the letter Q. till ye come to the 5 figure, including that of the terms annualrent and melioration, if in the contract, and if not, let them be omitted) and then ſay, and the ſaid C. M. knowing perfectly, that the ſaid complainer is to ſuit all manner of diligence, both real and perſonal againſt him for payment of the ſaid ſums, he, in manifeſt defraud, hurt and prejudice of him thereanent, intends, as the ſaid complainer is informed, to ſell, annalzie, after this, follow forth the ſtile of another inhibition, that is not on a depending action, only let theſe words after the will anent the implement be conceived thus: Anent the implement and fulfilling to him of the foreſaid contract of wadſet, and payment making to him of the foreſaid ſums therein contained, conform to the tenor thereof, clauſe of requiſition therein contained, and requiſition made conform thereunto, in all points, and after according to juſtice, take in the becauſe on the back of the bill, and then ſay, as ye will anſwer to us thereupon, *&c.* and the date of the bill muſt be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

HORNING

HORNING *and Poinding on a Contract of Wadſet, (being an improper Wadſet) for Payment of the Back-tack Duty, (which uſually is the Annualrent of the Money) and for the termly Penalties bearing Days, and not in Form as effeirs.*

GEORGE, *&c.* to meſſengers, *&c.* greeting, foraſmuchas, by contract of wadſet, made and paſt between C. M. of and M. J. B. of on the one and other parts, of the date the day of years, the ſaid C. M. for the ſum of Scots money, then borrowed and received by him from the ſaid M. J. B. ſold, annalzied, wadſet and diſponed (6) to the ſaid M. J. B. his heirs and aſſignees therein ſpecified, heritably, all and haill his lands of (here inſert the lands as in the diſpoſitive clauſe of the contract, and then ſay) and bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeize the ſaid M. J. B. and his foreſaids, heritably therein by double infeftments, to be holden with warrandice, and under reverſion in manner ſpecified in the ſaid contract, whereby the ſaid M. J. B. ſet, and in tack and aſſedation (for the duty under written) let back again to the ſaid C. M. and his foreſaids, the lands and others above wadſet, with the pertinents for the crop and year of God, 17 and years, being the firſt crop of the ſaid M. J. B. his entry thereto, and yearly thereafter in all time coming, during the not-redemption thereof, by virtue of the reverſion contained in the ſaid contract. And for the which cauſe, the ſaid C. M. bound and obliged him and his foreſaids, to make good and thankful payment to the ſaid M. J. B. and his foreſaids, of the ſum of money foreſaid, being the ordinary annualrent of the ſaid principal ſum, and that yearly at two terms, in the year and by equal portions in name of back-tack duty, beginning the firſt term's payment thereof at the term of then next to come, for the term immediately preceding, and ſo forth termly thereafter at the ſaid terms, and by equal portions in manner foreſaid, during the ſaid not-redemption and continuance of the ſaid back-tack, with the ſum of money foreſaid of liquidate expences for ilk term's failzie; and that by and attour the ſaid back-tack duty, and together therewith (7) as the ſaid contract of the date foreſaid, containing the ſaid back-tack, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon, in manner under written at more length purports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid C. M. perſonally, or at his dwelling-place, to make payment to the ſaid M. J. B. of the foreſaid ſum of money above written, (as the back-tack duty of the ſaid lands, and others above ſpecified) and that of all years and terms bygone, reſting, owing, unpaid: and ſicklike, yearly and termly in time coming, during the ſaid not-redemption and duration of the ſaid back-tack, the terms of payment of the

ſame

ſame being firſt come and bygone, with the ſaid ſum of money foreſaid of liquidate penalty for ilk term's failzie as ſaid is, after the form and tenor of the ſaid contract of wadſet, and back-tack therein contained in all points, within days, which is to be ruled by the contract, next after the charge, under the pain of rebellion, and putting of him to our horn, (after this follow forth the ſtile of an horning and poinding that has not a bill, with the after the form and tenor above ſpecified, when ye cloſe the poinding, and then ſay) according to juſtice, as ye will anſwer, *&c.* and the date of the regiſtration of the contract muſt be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

Nota, In ſome contracts of wadſet, there is not money payable, but bolls of victual of ſuch and ſuch qualities, and with ſuch a meaſure, and at ſuch a place yearly between Yule and Candlemas, (or like time) as parties agree; beginning the firſt year's payment between and for the crop years, being the firſt crop and year of the entry, and ſo forth yearly thereafter, during the not-redemption; wherein, if the heritor fail, he is bound to pay a certain liquidate price for each undelivered boll, and probably ſome cuſtoms beſides, and probably ſome other penalty by and attour. In which caſe, ye muſt narrate whatever the duty or cuſtoms be, ſo payable. And in the will of the letters, let the charge be conform; but if bolls be only payable without a liquidate price, and only a penalty adjected, in caſe of failzie, ye muſt only charge for the bolls, and for the penalty in the preciſe terms of the obligement. And remember, in this laſt caſe, ye muſt conclude no poinding, being too ſummary, and probably the victual ready and offered.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. B. of that where upon the day of years, C. M. of was orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not-payment making to him of (here inſert the back-tack duty as in the will of the letters of horning, with the penalty; and then ſay) conform to a contract of wadſet paſt between the ſaid C. M. and the ſaid complainer on the one and other parts, of the date the day of years; regiſtrate in the books of Council and Seſſion the day of as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion have teſtified; under the proceſs of the which horn, the ſaid C. M. has continually lien and abidden ſinſyne; and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* to conclude, according to another caption, the date of the bill being the date of the letters, *uſque ad finem*; and with

Ex deliberatione Dominorum Concilii.

HORNING

HORNING *and Poinding on the ſaid Contract, for Payment of the haill Sums, Principal, Back-tack Duties and Penalties, being without Requiſition.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas, by contract of wadſet, made and paſt between C. M. of heritor of the lands and others after ſpecified on the one part, and M. J. B. of on the other part, of the date the day of years. The ſaid C. M. for the ſum of Scots money advanced, paid, and delivered to him by the ſaid M. J. B. ſold, annalzied, wadſet and diſponed, (here take in the narrative of the former horning from the 6 figure to the 7, and then ſay) and further, the ſaid C. M. bound and obliged him and his foreſaids, to make payment to the ſaid M. J. B. and his foreſaids, of the ſaid principal ſum at the term of even years, or at any other term or time thereafter they pleaſed, but any requiſition to be made for that effect; with the ſum of money foreſaid of liquidate penalty in caſe of failzie, and that by and attour the ſaid principal ſum, bygone back-tack duties that ſhould happen to be reſting for the time; and together therewith, as the ſaid contract of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents; ordaining thir our letters to be direct thereupon, in manner under written at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid C. M. perſonally, or at his dwelling-place, to make payment to the ſaid M. J. B. of the ſaid ſum of money foreſaid of principal, and of expences; and of the ſaid back-tack duty of all years and terms bygone, reſting, owing, unpaid and ſicklike, yearly and termly in time coming, during the not-payment of the ſaid principal ſum; the terms of payment of the ſame being always firſt come and bygone, with the ſaid ſum of money above written of liquidate expences for each term's failzie of the ſaid back-tack duty, after the form and tenor of the ſaid contract of wadſet, and decreet interponed thereto in all points, within days, which is to be ruled by the contract, next after the charge, under the pain of rebellion and putting of him to our horn. After this follow forth the ſtile of another horning and poinding, only after the words of the poinding, add after the form and tenor of the ſaid contract of wadſet, and decreet interponed thereto, in all points; according to juſtice as ye will anſwer, *&c.* And let the date of the regiſtration be the date of the horning, and conclude with

Per decretum Dominorum Concilii.

Nota, If the back-tack duty be victual and not money, ye muſt, as to that, follow the former injunctions. *2do*, If the money be payable upon requiſition, the horning and poinding muſt paſs by bill. *3tio*, The date of the regiſtration in the ſaid bill, muſt be

be particularly mentioned in the narrative. 4*to*, The requiſition muſt be mentioned and narrated, as in the ſtile of the former horning on the like contract, as to requiſition, *page* 17, and the other obſervations ſubjoined thereto. As to the annualrent and meliorations of the bigging, would be previouſly conſidered in all their circumſtances, and how far they parallel.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. B. of that where, upon the day of years, C. M. of was orderly denounced rebel, and put to the horn, by virtue of letters of horning raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not-payment making to him, of the ſum of Scots money of principal, money foreſaid of penalty, and of (here inſert the back-tack duties charged for allenarly, however the horning be indefinite, without the charge be alſo indefinite, becauſe captions are only for bygones, not for future, without a new charge and diligence) with the ſum of money foreſaid, for each term's failzie, and not payment of the ſaid back-tack duty, conform to a contract of wadſet, paſt between the ſaid C. M. and the ſaid complainer, dated the day of years, whereby, as the ſaid C. M. wadſet and diſponed to the ſaid complainer, the lands of (here inſert them as in the diſpoſitive clauſe) ſo the complainer ſet the ſame in back-tack to him, during the not-redemption for payment yearly of the back-tack duty above ſpecified, during the ſpace above mentioned; and which contract is regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified. Under the proceſs of the which horn, the ſaid C. M. rebel foreſaid, has continually lien and abidden ſinſyne; and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* After this follow the ſtile of an ordinary caption *uſque ad finem*; only let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, If the back-tack duty be victual, (without a liquidate price) or if a liquidate price for each undelivered boll yearly, or if requiſition or no requiſition be provided by the contract of wadſet, the horning clears it; and in that caſe let your former directions be your rule in the caption, in *page* 22.

HORNING

HORNING *on a Contract of Wadſet, upon the Clauſe of Infefting, to be holden of the Superior; Clauſes of Warrandice purging Incumbrances, making the Rental appear to be as much, as by the Contract the Diſponer is obliged to, and for relieving of Ceſſes,* &c. *and giving of Tranſumpts,* &c.

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas, by contract of Wadſet, made and paſt between C. M. of and M. J. B. of on the one and other parts, of the date the day of years; the ſaid C. M. for the ſum of Scots money, then borrowed and received by him from the ſaid M. J. B. ſold, annalzied, wadſet and diſponed to the ſaid M. J. B. his heirs and aſſignees therein ſpecified heritably; all and haill, (here take in the lands and others wadſet, as in the diſpoſitive clauſe, and then ſay) and bound and obliged him, his heirs and ſucceſſors, (6) duly and ſufficiently to infeft and ſeize the ſaid M. J. B. and his foreſaids, heritably therein by double infeftments, and manner of holdings; the one of himſelf and his foreſaids blench, for payment of a penny Scots money at Whitſunday yearly if required; and the other of his lawful ſuperior, as freely as he held the ſame himſelf, and that by reſignation or confirmation in the option of the ſaid M. J. B. and his foreſaids, the acceptation of the one to be no ways prejudicial to the other, and to grant all rights and ſecurities requiſite thereanent, with warrandice in manner under written, and under reverſion in manner therein expreſſed; and to expede the ſaid infeftments, as well *a me*, as *de me*, on the ſaid C. M. and his foreſaids, their own proper charges, moyen, and expences; and to warrant the ſaid lands and others foreſaid, contract and diſpoſition, reſignation and infeftments to follow thereupon, to be ſufficient, free, ſafe and ſure to the ſaid M. J. B. and his foreſaids, from all wards, reliefs, non-entries, (here take in the clauſe of warrandice, and other clauſe of purging the ſaid lands and others foreſaid of all incumbrances, making the rental appear to be as much as obliged to, and relieving of ceſs, *&c.* and giving judicial tranſumpts, as they are ſet down in the contract and preciſe words thereof, and the penalty, if any be contained therein, and then ſay) (7) as the ſaid contract of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon, in manner under written at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. M. perſonally, or at his dwelling-place, to infeft and ſeize the ſaid M. J. B. heritably in the ſaid lands, and others above wadſet, with the pertinents, to be holden *a me* as ſaid is; and to grant all rights and ſecurities requiſite thereanent; and to obtain the foreſaid infeftment of the ſuperior, expede on the ſaid C. M. his own proper charges, moyen and expences; and to warrant the ſaid lands

and others foresaid, contract and disposition, resignation and infeftments to follow thereupon, to be sufficient, free, safe and sure to the said M. J. B. and his foresaids, from all and sundry wards, reliefs, non-entries, escheats, liferents, inhibitions, interdictions, apprisings, adjudications, former alienations, private and public infeftments, and all other grounds of eviction whatsomever, particularly and generally above specified, mentioned and contained in the said clause of warrandice, at all hands and against all deadly: and to purge the said lands and others foresaid, of all incumbrances that affect the same; and to make appear, that the rental thereof is as much as the said C. M. is obliged to as said is. And to warrant and relieve the said M. J. B. and his foresaids, of all cesses, ministers stipends, and other burdens and impositions above rehearsed: and to deliver to the said M. J. B. judicial transumpts of the writs and evidents of the said lands and others foresaid; and make the principals forthcoming wherein transumpts shall not be sufficient; and pay to him the said penalty of money foresaid attour performance, after the form and tenor of the said contract and decreet interponed thereto in all points within days (to be ruled according to the contract) next after the charge, under the pain of rebellion, and putting of him to our horn; wherein if he failzie, the said days being first come and bygone, That incontinent thereafter ye denounce him rebel, and put him to our horn; and escheat and in-bring all his moveable goods and gear to our use, for his contemption and disobedience; and also, that ye use the haill remanent order against him, prescribed by the act of parliament made thereanent, according to justice as ye will answer, *&c.* And let the date of the registration of the contract be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

CAPTION *upon the said Horning.*

GEORGE, *&c.* to messengers, *&c.* meaned and shown to us by M. J. B. of that where, C. M. of was upon the day of years, orderly denounced rebel, and put to our horn, by virtue of letters of horning, raised, used and execute against him, at the instance of the said complainer, for not infefting him in the lands and others after specified, *viz.* (here take in the lands and others, as in the narrative of the horning) to be holden of the said C. M. his superior thereof, as freely in all respects, as he holds the same himself, and on his own proper charges, moyen and expences; and that by resignation or confirmation in the said complainer's option: and for not granting all rights and securities requisite thereanent, with warrandice in manner under written, and under reversion in manner specified, in the contract of wadset past between them thereanent, dated the day of years; and for not warranting the said lands and others foresaid, with the said contract, resignation

nation and infeftments to follow thereupon, to be free ſafe and ſure to the ſaid complainer, his heirs and aſſignees, from all and ſundry wards, (here take in the clauſe of abſolute warrandice, as in the narrative of the horning, and then ſay) and for not purging the real incumbrances that affect the ſame; and for not making appear, that the rental given up in the ſaid contract of the ſaid lands and others foreſaid, is as much as he is thereby obliged; and for not relieving the ſaid complainer of all ceſſes, miniſters ſtipends, and other public burdens, impoſitions and ground duties affecting the ſaid lands; and for not giving to the complainer judicial tranſumpts of the writs and evidents thereof, and making the principals forthcoming, wherein tranſumpts ſhall not be ſufficient; and for not payment making to him of the penalty of Scots money contained in the ſaid contract, and incurred by the ſaid C. M. through his not performance of the premiſſes: and which contract, is regiſtrate in the books of Council and Seſſion, the day of years, as the ſaid letters of horning, with the executions thereof, duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified: under the proceſs of the which horn, the ſaid C. M. rebel foreſaid, has continually lien and abidden ſinſyne; and yet daily and continually haunts, frequents, and openly repairs to kirks, markets: After this follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

LETTERS *of Inhibition on the ſaid Contract and haill Clauſes therein ſpecified, particularly the Requiſition and Penalty therein contained, which muſt be taken in, albeit not in the Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. B. of that where, by the contract of wadſet, made and paſſed between C. M. of heritable proprietor of the lands and others after ſpecified, with the pertinents on the one part, and the ſaid complainer on the other part, of the date the day of years; the ſaid C. M. for the ſum of Scots money, borrowed and received by him from the ſaid complainer, ſold, annalzied, wadſet and diſponed to the ſaid complainer, his heirs and aſſignees therein ſpecified, heritably, all and haill the (here inſert the lands and others as they are in the diſpoſitive clauſe, and then ſay) and bound and obliged him, his heirs and ſucceſſors; (here take in from the 6 figure to the 7, and as therein directed *page* 25, and then ſay) and in caſe it ſhould pleaſe the ſaid complainer and his foreſaids, rather deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity above mentioned. Then, and in that caſe, the ſaid C. M. bound and obliged him and his foreſaids, to make good and thankful payment to the ſaid complainer and his above written thereof, at the term of even years;

years; or at any other term they pleaſe, (here notice if it be without requiſition, let the bill and letters bear ſo; but if not, and that it be upon requiſition, then ſay) in manner and upon requiſition ſpecified in the ſaid contract, with the ſum of money foreſaid of liquidate expences in caſe of failzie, attour performance, as the ſaid contract of the date foreſaid, containing divers other heads, obligements, articles and claufes, conceived in favour of the ſaid complainer and his foreſaids, regiſtrate in the books of Council and Seſſion the day of years, ſhown to our Lords of Council and Seſſion has teſtified; and the ſaid C. M. knowing perfectly that the ſaid complainer is to ſuit all manner of execution againſt him, upon the foreſaid contract, for implement and fulfilling to him thereof, and payment making to him of the foreſaid ſums therein contained; the ſaid C. M. in manifeſt defraud, hurt and prejudice of him thereanent, intends, as the ſaid complainer is informed, to ſell, annalzie, (after this follow forth the ſtile of the former inhibition, until ye come to according to juſtice; only let theſe words anent the implement, *&c.* be in theſe terms both in bill and letters) anent the implement and fulfilling to him of the foreſaid contract of wadſet, in the haill heads, articles and clauſes thereof, conceived in favour of him and his foreſaids, and whereby the ſaid C. M. ſtands any ways bound and obliged to them thereby; and payment making to them of the ſums of money therein contained: And then conclude the ordinary ſtile as ſaid is, with according to juſtice, becauſe the Lords have ſeen the regiſtrate contract above written, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters

Ex deliberatione Dominorum Concilii.

Nota, Inhibition may be raiſed on any contract, bond, heritable or moveable; or other ground in writ where parties are alive, albeit not regiſtrate.

HORNING *and Poinding upon a Charter Party, at the Inſtance of the Skipper againſt the Merchant for Payment of the Fraught, Lye days, and Average,* &c. *which muſt have a Bill, becauſe of the ſeveral Proteſts.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. ſkipper and maſter of the good ſhip, called the that where, by charter party made, by way of contract, between the ſaid complainer on the one part, and C. D. merchant burgeſs of on the other part, dated the day of laſt pypaſt, the ſaid complainer ſet and let his ſaid ſhip to the ſaid C. D. from the harbour of where ſhe then lay, to the port after ſpecified, to the effect after mentioned, and obliged him to have his ſaid ſhip in readineſs with maſts, ſails, tows, cables, anchors, flat-boat, and other neceſſaries and proviſions, with expert ſeamen, and, wind and weather ſerving, to ſail from the ſaid harbour of to the port of and there to remain and wait by the ſpace

ſpace of weather, work, lye days, for receiving in of bolls bear, or other goods, the ſaid C. D. or his ſaid order pleaſed ſet aboard, and for which the ſaid C. D. or his ſaid order were to give the complainer a bill of loading, to clear what ſet aboard, as well as the complainer was to give them a receipt of the victual or other goods to be ſet aboard, as ſaid is, and, wind and weather ſerving, to ſail from the ſaid port of to the ſaid harbour of where ſhe now lies, all hazard by ſea excepted, and to remain and abide in the ſaid harbour the ſpace of weather, work, lye days, for unloading of the ſaid victual and other goods, and to keep his ſaid ſhip ſufficiently water-tight, ſo as the ſaid victual and goods might not be damnified in the return homeward, and that no part thereof ſhould be imbezzled by himſelf or ſeamen; and for the which cauſes, the ſaid C. D. bound and obliged him to have contented and paid to the ſaid complainer, the ſum of Scots money, in name of fraught for the ſaid voyage, with the ſum of money foreſaid, each day the ſaid A. B. and his ſaid ſhip and mariners ſhould remain at the ſaid port of attour the lye days above ſpecified, with towage, rowage, anchorage, average, petty pilitage, lights of May, and other dues, according to the cuſtom of the ſea, and that within hours after the ſaid complainer his livering of the ſaid victual, and other goods in his ſaid ſhip within the ſaid harbour of and to pay to the ſaid complainer the ſum of for each day he ſhould remain within the ſaid harbour, attour the ſaid lye days appointed for that effect, and both parties obliged them, their heirs and executors, to fulfil and perform the premiſſes to one another, and the party failer to pay to the party obſerver, or willing to obſerve the ſame, the ſum of in name of liquidate penalty in caſe of failzie, and that by and attour performance, and together therewith, as the ſaid charter party, made by way of contract as ſaid is, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day of alſo laſt bypaſt, ordaining thir our letters to be direct thereupon, in manner under written, ſhown to our Lords of Council and Seſſion has teſtified; and true it is, that the ſaid complainer was detained after his arrival at the ſaid port of in default of the ſaid C. D. by the ſpace of days attour the days allowed, as alſo after he was loaded there, ſet ſail for the ſaid harbour of and livered his goods, and delivered the ſame to the ſaid C. D. as his receipt thereof upon the back of his double of the ſaid charter party, ſhown to the ſaid Lords has teſtified; and yet notwithſtanding, has now detained him with the ſhip and men within the ſaid harbour, by the ſpace of days attour the ſaid hours allowed in manner foreſaid, for payment of the fraught and other dues, and over and above the lye days above prefixed for livering, as authentic inſtruments taken at the ſaid port of upon the day of laſt bypaſt, in the hands of notary-public, and at the ſaid harbour of upon the day of inſtant, in the hands of notary-public, likeways ſhown to the ſaid Lords have teſtified; nevertheleſs the ſaid C. D. wrongouſly refuſes, poſtpones and defers to make payment to the ſaid complainer of his ſaid fraught, lye days and dues aforeſaid, according to the cuſtom of the ſea, and of the ſaid

penalty

penalty incurred by him through not payment and performance as ſaid is, and for which penalty the ſaid complainer proteſted in the ſaid laſt inſtrument, albeit oft and divers times deſired and required thereto, without he be compelled as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling place, to make payment to the ſaid complainer of the ſaid ſum of money foreſaid of fraught, with the ſaid ſum of for each lye day he remained at the ſaid port of attour the days allowed as ſaid is, and of the ſaid ſum of for each lye day he remained within the ſaid harbour of Leith, attour the lye days above written, and hours allowed in manner foreſaid, together with the ſaid C. D. his part as merchant of the ſaid towage, rowage, anchorage, average, petty pilitage, lights of May, and other dues, according to the cuſtom of the ſea, together alſo with the foreſaid penalty of money above ſpecified, incurred by him through his not performance of his part of the ſaid contract, and that by and attour performance, and together therewith after the form and tenor of the ſaid charter party, decreet interponed thereto, receipt of the loading, and goods, and inſtruments above mentioned in all points, within days, to be ruled according to the charter party, next after the charge, under the pain of rebellion, and putting of him to our horn (after this follow forth the ordinary ſtile of horning and poinding, and after the poinding, when ye ſay in other letters to the avail and quantity of the ſaid ſums, call them here liquidate ſums, becauſe that of towage, rowage, and reſt of that general clauſe is not liquidate, and ſo cannot be poinded for as that which is liquid, and when ye have cloſed the poinding in theſe terms, ſay, according to juſtice, becauſe the Lords have ſeen the regiſtrate charter party, receipt and inſtrument above written, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. ſkipper and maſter of the good ſhip called that where, upon the day of laſt bypaſt, C. D. merchant and burgeſs of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not payment making to him of the ſum of Scots money of fraught, for ſailing with his ſaid ſhip from the harbour of where ſhe lay for the time, to the port of where ſhe received her loading of victual and other goods ſet aboard of her by the ſaid C. D. his order, and the ſum of for each day he remained thereat, being days attour the weather, work, lye days appointed by the

the charter-party after ſpecified, and of the ſum of money foreſaid, for each day he was kept at the ſaid harbour of in default of the ſaid C. D. after livering of the ſaid loading there, and hours thereafter allowed for payment of the fraught and other dues, being days over and above, and of the ſaid C. D. his part, as merchant of the towage, rowage, anchorage, average, petty pilitage, lights of May, and other dues, according to the cuſtom of the ſea, and likeways of the ſum of money above written of penalty incurred by him through not payment thereof, conform to the charter-party paſt between the ſaid complainer and the ſaid C. D. thereanent, of the date the day of laſt bypaſt, regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day of and alſo conform to the ſaid C. D. his receipt of the ſaid loading, and inſtruments taken upon the ſaid days, attour the lye days allowed, and upon the incurring of the ſaid penalty, in manner ſpecified in the ſaid letters of horning, as the ſame with the executions thereof duly regiſtrate conform to the act of parliament, ſhown to our ſaid Lords of Council and Seſſion has teſtified; under the proceſs of the which horn, the ſaid C. D. rebel foreſaid, has continually lien and abidden ſinſyne, and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, after this, follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters, and ſo conclude with

Ex deliberatione Dominorum Concilii.

HORNING *upon the Warrandice of an Aſſignation.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; forasmuchas, W. M. merchant burgeſs of by his aſſignation of the date the day of laſt bypaſt, for the onerous cauſes therein ſpecified, made and conſtitute M. J. B. of his heirs and aſſignees, his very lawful undoubted and irrevocable ceſſioners and aſſignees, in and to the ſum of Scots money of principal money foreſaid of expences, and annualrents of the ſaid principal ſum bygone and in time coming during the not-payment thereof, ſpecified and contained in a bond made and granted by P. S. merchant burgeſs of to the ſaid W. M. his heirs and aſſignees thereupon, of the date the day of years, and in and to the ſaid bond, haill tenor and contents thereof, with all that has followed or may follow thereupon; and all action and execution competent by virtue of the ſame for ever; and obliged him, his heirs and executors, to warrant the ſaid aſſignation from his own fact and deed; and that the ſaid ſums were juſtly reſting, and ſhould prove good and effectual to the ſaid M. J. B. and his foreſaids in the payment, as the ſaid aſſignation of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct

direct thereupon, in manner under written at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid W. M. perſonally, or at his dwelling place, to warrant the ſaid aſſignation to the ſaid M. J. B. from his own proper fact and deed, and that the ſaid ſum is juſtly reſting, and ſhall prove good and effectual to him in the payment, after the form and tenor of the ſaid aſſignation, clauſe of warrandice therein contained, and decreet interponed thereto in all points, within days, (to be ruled by the clauſe of regiſtration) next after he be charged by you thereto, under the pain of rebellion and putting of him to our horn; (after this follow forth the ſimple ſtile of a horning without poinding, and then) according to juſtice as ye will anſwer, *&c.* and let the date of the regiſtration of the aſſignation, be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

Nota, Caption thereon being ſo eaſy, is not ſet down.

HORNING *upon the Warrandice of a Tranſlation.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas, M. J. B. of by his tranſlation of the date the day of laſt bypaſt, for the cauſe therein ſpecified, aſſigned and transferred to, and in favour of G. M. of his heirs and aſſignees, the ſum of Scots money of principal, with the ſum of money foreſaid of expences, and annuals of the ſaid principal ſum, contained in a bond made and granted by P. S. merchant, burgeſs of to W. M. merchant burgeſs of his heirs and aſſignees thereupon, of the date the day of years, and in an aſſignation made by the ſaid W. M. to the ſaid M. J. B. his heirs and aſſignees of the ſame, dated the day of laſt bypaſt, together with the ſaid bond and aſſignation, haill tenors and contents thereof, with all that followed, or might follow thereupon for ever: And bound and obliged him, his heirs and executors, to warrant the foreſaid right and tranſlation to the ſaid G. M. of and his foreſaids, from the ſaid W. M. and his own proper facts and deeds done, or to be done in prejudice thereof, and that the ſaid debt ſo aſſigned and transferred, ſhould prove good and effectual to the ſaid G. M. and his foreſaids in the payment, as the ſaid tranſlation of the date foreſaid, inſert and regiſtrate in our books of Council and Seſſion, and a decreet of our Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon, in manner under written at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid M. J. B. perſonally or at his dwelling place, to warrant the foreſaid right and tranſlation to the ſaid G. M. and his foreſaids

ſaids, from his own and his ſaid cedent their proper facts and deeds done, or to be done in prejudice thereof; and that the ſaid debt ſo aſſigned and transferred, ſhall prove good and effectual to him in the payment, after the form and tenor thereof, and decreet interponed thereto in all points, within days, to be ruled by the clauſe of regiſtration contained in the tranſlation, next after the charge, under the pain of rebellion and putting of him to our horn, (follow forth the ſtile of a common horning but without poinding, and then ſay) according to juſtice as ye will anſwer, *&c.* And let the date of the regiſtration of the tranſlation, be the date of thir letters, and then conclude with

Per decretum Dominorum Concilii.

CAPTION *upon the Warrandice of a Tranſlation.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by G. M. of that where, upon the day of laſt bypaſt, M. J. B. of was orderly denounced rebel and put to the horn, by virtue of letters of horning, raiſed, uſed and execute againſt him at the inſtance of the ſaid complainer, for not warranting to him a right and tranſlation made by the ſaid M. J. B. to the ſaid complainer his heirs and aſſignees, of the ſum of Scots money of principal, with the ſum of money foreſaid of expences and annuals of the ſaid principal ſum, contained in a bond granted by P. S. merchant, burgeſs of to W. M. merchant, burgeſs of his heirs and aſſignees thereupon, of the date the day of and years, regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, and aſſigned by the ſaid W. M. to the ſaid M. J. B. the day of years; and which tranſlation, is dated the day of years; and whereby the ſaid M. J. B. is bound to warrant the ſame from the ſaid W. M. and from his own proper facts and deeds done, or to be done in prejudice thereof; and that the debt ſo aſſigned and transferred, ſhall prove good and effectual to the ſaid complainer and his foreſaids in the payment; and which tranſlation is regiſtrate in the ſaid books of Council and Seſſion, the day of years, as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified: under the proceſs of the which horn, the ſaid M. J. B. has continually lien and abidden ſinſyne; and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets: (after this follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters) and conclude with

Ex deliberatione Dominorum Concilii.

Nota, As to both the former hornings, I was ſtill of the opinion, that before any ſuch was raiſed, that the common debtor ſhould be diſcuſſed not only by a regiſtrate horn-

ing but appriſing), if the ſum be great, and that intimate to the party obliged in warrandice, elſe the charge will reſolve in a libel if ſuſpended.

LETTERS *of Horning upon the Warrandice of a Diſcharge.*

GEORGE, *&c.* to meſſengers, *&c.* greeting: foraſmuchas, M. J. B. of by his diſcharge dated the day of years, for the onerous cauſes therein ſpecified, exonered, quit claimed, and *ſimpliciter*, diſcharged P. S. merchant burgeſs of his heirs and executors, of the ſum of Scots money of principal, money foreſaid of expences and annuals of the ſaid principal ſum, contained in a bond granted by the ſaid P. S. merchant, burgeſs of to W. M. merchant burgeſs of his heirs and aſſignees thereupon, of the date the day of years, regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, and aſſigned by the ſaid W. M. to the ſaid M. J. B. the day of years, and of the ſaid bond itſelf, decreet interponed thereto, with all that followed thereupon, and bound and obliged him, his heirs and executors, to warrant the foreſaid diſcharge to be good, valid and ſufficient to the ſaid P. S. and his foreſaids, for their exoneration of the premiſſes thereafter, in all time coming, at all hands, and againſt all deadly, as the ſaid diſcharge of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents; ordaining thir our letters to be direct thereupon in manner under-written at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid M. J. B. perſonally, or at his dwelling place, to warrant the foreſaid diſcharge to the ſaid P. S. and his foreſaids, for their exoneration of the premiſſes in all time coming, at all hands, and againſt all deadly, after the form and tenor of the ſaid diſcharge, and decreet interponed thereto, in all points, within days, to be ruled by the clauſe of regiſtration, next after the charge, under the pain of rebellion, and putting of him to our horn, wherein if he failzie, the ſaid days being firſt come and bygone, that incontinent thereafter, ye denounce him rebel, and put him to our horn, and eſcheat, and inbring all his moveable goods and gear to our uſe for his contemption; and alſo, that ye uſe the haill remanent order againſt him preſcribed by our act of parliament, made thereanent; according to juſtice, as ye will anſwer, *&c.* and let the date of the regiſtration of the diſcharge, be the date of the letters, and conclude with

Per decretum Dominorum Conſilii.

Nota, If the debt be conſiderable, and that there be a diſtreſs from any other pretender, to ſerve inhibition is rational, being a ſecurity, but to intimate the diſtreſs before a charge of horning, were convenient, and takes off that of malice, and beſides

a good ground to get a ſufficient cautioner in the ſuſpenſion, and large expence in the diſcuſſing, whereas a general charge reſolves always in a libel, and the cautioner thereby free without the diſtreſs, be *inſtanter* verified, and then the Lords are tender, and will hardly looſe the cautioner.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers *&c.* foraſmuchas, it is humbly meaned and ſhown to us by P. S. merchant burgeſs of that where, upon the day of laſt bypaſt, M. I. B. of was orderly denounced rebel, and put to the horn, by virtue of letters of horning, raiſed, uſed and executed againſt him at the inſtance of the ſaid complainer, for not warranting a diſcharge granted by him to the ſaid complainer, dated the day of alſo laſt bypaſt, of the ſum of Scots money, of principal, with the ſum of money foreſaid of expences, and annuals of the ſaid principal ſum, contained in a bond granted by the ſaid complainer to W. M. merchant burgeſs of his heirs and aſſignees thereupon, of the date the day of 17 and years, regiſtrate in the books of Council and Seſſion, the day of alſo laſt bypaſt, and aſſigned by the ſaid W. M. to the ſaid M. J. B. his heirs and aſſignees, the day of years, and that at all hands, and againſt all deadly, and which diſcharge was regiſtrate in the ſaid books of Council and Seſſion the day of likeways laſt bypaſt, as the ſaid letters of horning, with the executions thereof duly regiſtrate conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified; under the proceſs of the which horn, the ſaid M. J. B. rebel foreſaid, has continually lien and abidden ſinſyne, and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* (After this follow forth the ſtile of an ordinary caption, *uſque ad finem*, only let the date of the bill be the date of the letters, and conclude with)

Ex deliberatione Dominorum Concilii.

HORNING *and Poinding at a Miniſter's inſtance againſt his Pariſhioners, upon a Decreet of Modification and Locality for his Stipend, and Communion Elements.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. A. M. miniſter at that where, M. J. C. ſometime miniſter of the ſaid church, obtained a decreet at his inſtance, before the Lords and others ſpiritual and temporal, appointed by act of parliament for plantation of kirks and valuation of teinds, againſt M. J. of (here inſert the other heritors, liferenters,

wadſetters and tenants names and deſignations, of the lands contained in the ſaid decreet, and then ſay) and againſt patron of the ſaid kirk, if a laick perſon, and titular of the teinds of the ſaid pariſh, upon the day of years, modifying and appointing the conſtant ſtipend of the ſaid church and pariſh, to be thereafter yearly in all time coming, (here inſert the victual, part of the ſaid ſtipend, and of the ſeveral qualities in the decreet, whether wheat, bear, meal or oats, and money) which they ordained to be paid to the ſaid M. J. C. during all the days of his lifetime, and ſerving the cure at the ſaid kirk; and to his ſucceſſors in the ſaid charge and function yearly thereafter in all time coming, in manner following, *viz.* the ſaid victual-ſtipend between Yule and Candlemaſs yearly, and the ſaid money-ſtipend at Whitſunday and Martinmas yearly by equal portions, beginning the firſt year's payment of the ſaid victual-ſtipend between Yule and Candlemaſs 17 years, for the preceding crop; and the ſaid money-ſtipend at the term of then next for the term immediately preceding, and ſo forth yearly and termly thereafter in all time coming; and localled and appointed the ſaid whole ſtipend, as well victual as money, to be paid out of the teinds of the lands and others after ſpecified, by the fore-named perſons and their ſucceſſors, patrons, titulars, heritors, wadſetters, liferenters, tenants and poſſeſſors thereof, each one of them for their own parts, and according to their ſeveral proportions of the ſame, as is particularly after divided; (here inſert the ſeveral proportions payable by the ſaid ſeveral perſons, and teinds of the lands out of which payable in the expreſs words and terms of the decreet, and then ſay, if the miniſter have alſo right thereby to the vicarage, together with the vicarage, teinds of the ſaid pariſh yearly, at the terms and times uſed and wont) and likeways modified and appointed the ſum of for the communion-elements, which the ſaid Lords ordained the fore-named perſons to pay to the ſaid M. J. C. and his ſucceſſors aforeſaid, as oft and how oft as the Holy Sacrament of our Bleſſed Lord's Supper ſhould happen to be celebrate; as the ſaid decreet of modification and locality of the date foreſaid, ordaining thir our letters to be direct thereupon in manner under-written, ſhown to our Lords of Council and Seſſion has teſtified. And true it is, that the ſaid complainer was upon the day of years, duly and lawfully preſented miniſter for ſerving the cure at the ſaid kirk and pariſh thereof, and to the manſe and glebe of the ſame, and to ~~the conſtant local modified~~ ſtipend thereof, ~~haill~~ fruits, rents, emoluments, and other caſualities pertaining and belonging thereto, of the crop and year of God years, and thereafter in all time coming during all the days of his lifetime, and ſerving of the cure at the ſaid kirk, and accordingly was collated, and received inſtitution as his preſentation, collation and inſtrument of inſtitution alſo ſhown to our ſaid Lords of Council and Seſſion have teſtified: notwithſtanding whereof, the patron, titular, heritors, liferenters, and wadſetters, tenants, tackſmen, poſſeſſors and occupiers of the lands, and others lying within the ſaid pariſh, and intromitters with the teinds, parſonage and vicarage thereof, and others addebted, and in uſe of payment of the ſaid conſtant local modified ſtipend and vicarage, teinds aforeſaid; wrongouſly refuſe, poſtpone and defer to make payment

ment to the ſaid complainer of the ſaid ſtipend and vicarage, of the ſaid crop and year of God years, and yearly and termly thereafter in all time coming, during his ſaid lifetime, and ſerving the cure at the ſaid kirk, and of the ſaid ſum of money foreſaid for the communion-elements, as oft and how oft as the ſame has been adminiſtrate and celebrate ſince his ſaid entry, or thereafter ſhall happen to be celebrate; each one of them for their own parts as ſaid is, albeit oft and divers times deſired and required thereto, without they be compelled as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye pr[illegible]s, and, in our name and authority, command and charge the ſaid patrons, ti[illegible]lar, heritors, liferenters, wadſetters, tenants, tackſmen, poſſeſſors, and occup[illegible]ers of the lands, and others lying within the ſaid pariſh, and intromitters with the teinds thereof, and others addebted, and in uſe of payment as ſaid is, to readily anſwer, intend, obey and make good and thankful payment to the ſaid complainer, of the foreſaid victual ſtipend of the quality above ſpecified; and of the ſaid money ſtipend, together with the ſaid vicarage teind, and that of the ſaid crop and year, years; and yearly and termly ſinſyne, and in all time coming, during all the days of his lifetime, and ſerving of the cure at the ſaid kirk, together with the ſaid ſum of money foreſaid for the communion-elements, as oft and how oft as the ſame has been, or hereafter ſhall be celebrate; each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly above divided: and the terms of payment of the ſaid ſtipend victual, and money and vicarage teinds being always firſt come and bygone, after the form and tenor of the ſaid decreet of modification and locality, preſentation, collation, and inſtrument of inſtitution in all points, within days, to be ruled by the decreet, next after the charge, under the pain of rebellion and putting of them to our horn; (after this follow forth the ſtile of an ordinary horning and poinding, only in the cloſe of the poinding ye muſt ſay, to the avail and quantity of the ſaid liquidate ſums, and let after the form and tenor be as above, and then ſay) according to juſtice, becauſe the Lords have ſeen the decreet, preſentation, collation, and inſtrument of inſtitution above written, as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Albeit poinding by laicks, muſt be by appriſing at the croſs, as well as on the ground; yet by the 21ſt act of the third Seſſion of the 1ſt parliament of King Charles the II. miniſters for their ſtipends, poind and apprize only upon the ground.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. A. M. miniſter at that where, upon the day of laſt bypaſt, the perſons reſpective after named, were orderly denounced rebels and put to our horn,

horn, by virtue of letters of horning, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to him of the victual and ſilver ſtipend after ſpecified, and vicarage teinds after mentioned, due by them to the complainer, forth of the lands and teinds thereof under written yearly, the crops, years, and terms, after rehearſed; each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz.* A. B. heritor, and C. D. tenant of the lands of the number and quantity of bolls wheat, and bolls bear, and bolls oatmeal, and bolls oats, and Scots money of ſilver ſtipend due by them to the complainer, forth of the ſaid lands of the crop and year years, and the terms thereof, with the vicarage of the ſaid lands, the ſaid crops and years, (*et ſic de ceteris*, and then ſay) conform to the decreet of modification and locality given and pronounced thereanent, by the Lords and others of the commiſſion, appointed by act of parliament for plantation of kirks and valuation of teinds, at the inſtance of M. J. C. ſometime miniſter at the ſaid kirk, in favour of himſelf and his ſucceſſors in the ſaid charge and function, againſt the patron, titular, heritors, liferenters, wadſetters, tenants, tackſmen, occupiers of the lands, and others within the ſaid pariſh, and intromitters with the teinds thereof, and addebted and in uſe of payment of the ſaid ſtipend and vicarage, upon the day of years, as the ſaid letters of horning and executions thereof, duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified: under the proceſs of the which horn, the forenamed perſons rebels foreſaid, have continually lien and abidden ſinſyne; and yet daily and continually haunt, frequent, reſort, and openly repair to kirks, markets; (after this follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

INHIBITION *of Teinds at the Inſtance of a Parſon, or other dignified Perſon againſt his Pariſhioners.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. D. parſon of and miniſter at that where, the ſaid complainer was upon the day of years, duly and lawfully preſented to the church of and to the parſonage and vicarage teinds of the ſaid pariſh; and to the manſe and glebe thereof, profits and emoluments belonging thereto, as fully and freely in all reſpects, as M. J. C. late parſon and miniſter there; or any of his predeceſſors in that charge and function brooked and enjoyed, or might have brooked and enjoyed the ſame, and that of the crop and year of God years, and yearly thereafter in all time coming, during all the days of his lifetime, and ſerving the cure of the ſaid kirk; and accordingly was collated, and thereupon received

received inſtitution, as his ſaid preſentation, collation, and inſtrument of inſtitution, ſhown to our Lords of Council and Seſſion have teſtified: by virtue whereof, the ſaid complainer has ſufficient good and undoubted right and intereſt to the ſaid parſonage and vicarage teinds of the ſaid pariſh, the ſaid crop and year, and yearly thereafter in all time coming, during his ſaid lifetime; and he ought and ſhould be anſwered, obeyed and paid thereof: and yet notwithſtanding, the heritors, liferenters, wadſetters, tenants, tackſmen and poſſeſſors of the lands, and others lying within the ſaid pariſh, intend, as the complainer is informed, not only to ſhear and ſtack, but alſo to intromit with, lead away, take, uſe and diſpoſe upon the whole corns growing thereupon this inſtant crop and year, years, without any tack, licence, warrant, or attolerance of the ſaid complainer, firſt had and obtained thereto, and to his great hurt and prejudice, without remeid be provided to the ſame as is alledged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, inhibit and diſcharge all and ſundry the heritors, liferenters, wadſetters, tenants, tackſmen, poſſeſſors and occupiers of the lands, and others lying within the ſaid pariſh, by open proclamation at the ſaid pariſh-church door, and by affixing and leaving of a juſt and authentic copy hereof thereupon, upon a Sunday in the forenoon, and after ſaying of the bleſſing, that they or none of them preſume, nor take upon hand under whatſomever colour or pretext, to lead, intromit with, or take away the corns growing upon the ground of the lands, and others lying within the ſaid pariſh this inſtant crop, without tack, licence and attolerance of the ſaid complainer, firſt had and obtained thereto: but, on the contrary, that they timeouſly, and before any ſuch leading, acquaint the ſaid complainer therewith, to the effect he, by himſelf, his factors, ſervants, and others in his name, and having his power and warrant for that effect may come and teind with them, conform to his ſaid preſentation, collation and inſtitution in all points, certifying them that do in the contrary, that they ſhall be holden and repute as violent ſpuilziers, and made liable therefore conform to the laws of the kingdom in that caſe provided, and that ye uſe the haill remanent order againſt them, preſcribed by the act of parliament made thereanent, according to juſtice, becauſe the Lords have ſeen the preſentation, collation, and inſtrument of inſtitution above written, as ye will anſwer to us thereupon: and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Inhibitions of this nature continue but for a year, and ſo muſt be annually raiſed and execute, and are not to be regiſtrate as other inhibitions.

HORNING *at a Miniſter's Inſtance for building a Manſe.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us, by M. J. M. miniſter of that where, the ſaid complainer was duly and lawfully preſented to the ſaid kirk of for ſerving the cure thereat, and to the conſtant

conſtant local modified ſtipend thereof, manſe and glebe of the ſame, of the crop and year years, and thereafter in all time coming during his lifetime, and ſerving the cure at the ſaid kirk, conform to the preſentation granted to him thereupon, dated the day of the ſaid year, and conform whereunto he received collation, and thereupon inſtitution in due and competent form, as his preſentation, collation and inſtitution ſhown to our Lords of Council and Seſſion have teſtified; likeas, by the 21ſt act of the third ſeſſion of our firſt parliament, begun at Edinburgh upon the 18th day of June 1663, intituled, Act anent manſes and glebes, and poinding for miniſters ſtipends, we, with advice and conſent of our eſtates of parliament, upon conſideration, that, notwithſtanding of ſeveral acts of parliament made of before, divers miniſters were not ſufficiently provided with manſes and glebes and others, do not get their manſes free at their entry, ſtatute and ordain, that where competent manſes are not already built, the heritors of the pariſh, at the ſight of the biſhop of the dioceſs, or ſuch miniſters as he ſhall appoint, with two or three of the moſt knowing and diſcreet men of the pariſh, build competent manſes to their miniſters, the expences thereof not exceeding one thouſand pounds, and not being beneath five hundred merks, and where competent manſes are already built, ordained the heritors of the ſaid pariſh to relieve the miniſter and his executors, of all coſt, charges and expences for repairing of the foreſaid manſes, declaring thereby, that the manſes being once built and repaired, and the building or repairing ſatisfied, and paid by the heritors in manner foreſaid, the ſaid manſes ſhall thereafter be upholden by the incumbent miniſters during their poſſeſſion, and by the heritors in time of vacancy, out of the readieſt of the vacant ſtipend; in like manner ordained, that every miniſter have fuel, foggage, ſeal and divots, according to the act of parliament, made in *anno* 1593: As alſo, that every miniſter, except ſuch miniſters of royal burghs, who have not right to glebes, have graſs for one horſe and two kine, over and above their glebe, to be deſigned out of kirk-lands, and with relief according to the former acts of parliament ſtanding in force, and if there be no kirk-lands lying near the miniſter's manſe, out of which the graſs for one horſe and two kine may be deſigned; or otherways, the ſaid kirk-lands be arable land in either of theſe caſes, ordained the heritors to pay to the miniſter and his ſucceſſors yearly, the ſum of twenty pounds Scots money, for the ſaid graſs for one horſe and two kine, the heritors always being relieved according to the law ſtanding, of other heritors of kirk-lands in the ſaid pariſh; and we, with advice foreſaid, for ſpecial cauſes and conſiderations declared, that the ſaid act as to the manſes, was to have force as the ſame had been made and dated the 14th day of March 1649, as the ſaid act of parliament alſo ſhown to the ſaid lords has teſtified, and true it is, that conform to the ſaid act of parliament, the complainer being deſtitute of a manſe ever ſince his being a miniſter of the ſaid kirk, required the heritors of the ſaid pariſh at the ſight aforeſaid, to build him a competent manſe to the value above-mentioned, and to give him graſs for a horſe, and two kine, over and above his glebe, to be deſigned out of kirk-lands, and if there be no kirk-lands lying near the manſe, out of which the graſs aforeſaid may be deſigned,

ſigned, or otherways, if the ſaid kirk-lands be arable land, in either of theſe caſes, to pay to the complainer the ſaid ſum of twenty pound Scots yearly, and they refuſing, or at leaſt delaying, he was neceſſitate to make application to the biſhop of the dioceſs in the ſaid matter, who thereupon nominate and appointed three of the miniſters of the ſaid dioceſs, and as knowing and diſcreet men of the pariſh, for viſiting where the manſe might be moſt conveniently built, and what expence will be neceſſary for that effect, and accordingly they having made the ſaid viſitation upon the day of and having taken the whole matter to conſideration, they gave their opinion, and declared, that they judged moſt convenient, that the manſe were built upon a little ſpot beſide the glebe, and found, after converſing with maſons, wrights, ſmiths, glaſiers and ſlaters, all diſcreet men, and expert handy-labourers, and of good fame, that the ſame could not be built with ſuch conveniencies as were neceſſary to accommodate the miniſter of the pariſh, under the ſum of nine hundred eighty ſeven pound thirteen ſhilling four pence, and found there was no place that could be deſigned for his graſs, the lands adjacent being arable, and yearly cultivated, and that therefore the twenty pound allowed in place by the ſaid act of parliament ſhould be accepted of yearly; and made their report in theſe terms, to the ſaid Reverend Father, who, after reading and reviſing thereof, approved of the ſame, as the ſaid reference and report likeways ſhown to the ſaid Lords has teſtified: And albeit it be of verity, that the ſaid manſe be built accordingly, in the place deſigned and appointed, and to the value above ſpecified, contained in the ſaid report, conform to the contract and agreement paſſed between the complainer, and maſon, wright, ſmith, glaſier, and ſlater thereanent, of the date the day of and years, alſo ſhown to the ſaid lords, and the complainer in poſſeſſion thereof, nevertheleſs, the ſaid heritors of the ſaid pariſh wrongouſly refuſe, poſtpone and defer to meet and ſtent the ſame amongſt them, and divide the ſaid ſums upon each perſon, according to their reſpective eſtates and intereſts within the ſaid pariſh, and to appoint a collector for receiving thereof, and to make payment to him of their reſpective proportions accordingly, nor yet will they meet and ſtent upon the diviſion and proportioning of the ſaid ſum of twenty pounds, appointed by the ſaid act of parliament, in lieu and place of the ſaid graſs yearly, according to their ſaid eſtates and intereſt as ſaid is, and make payment to the ſaid complainer of their ſaid proportions yearly ſince his entry to the ſaid charge and function, and likeways yearly in time coming during his ſaid lifetime, and ſerving the cure at the ſaid kirk, without they be compelled as is alledged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid heritors of the ſaid pariſh of perſonally, or at their dwelling-places, to meet and convene with the ſaid complainer, within the ſaid pariſh kirk, and there ſet down a ſtent roll of each heritor's proportion, not only of the ſaid ſum of money foreſaid, for building of the ſaid manſe, but alſo of the ſaid ſum of twenty pounds for graſs yearly, and that according to their ſeveral eſtates and intereſt within the ſaid

pariſh, and appoint a collector for receiving thereof, with certification if they fail, ſuch of the ſaid heritors as ſhall be preſent, and ſhould all of them fail, ſuch as the biſhop of the dioceſs appoints, will ſet down the ſaid ſtent by way of roll, containing each man's proportion in manner foreſaid, and appoint a collector, and the ſame being ſo ſtented and proportioned by roll as ſaid is, either by the ſaid heritors, or ſuch of them as ſhall be preſent, and failing of all, by the biſhops appointment, in manner foreſaid, and under their hands, that ye, in our ſaid name and authority, command and charge each heritor to make payment to the ſaid complainer, at leaſt to the ſaid collector, of his proportion ſo ſet down of the ſaid ſum of money above written for the ſaid manſe, and likeways to pay to the complainer his proportion of the ſaid ſum of twenty pounds for the ſaid graſs, and that yearly, as to the ſaid graſs, ſince the complainer's entry to his ſaid charge and function of his miniſtry at the ſaid kirk, and of the like proportions yearly, in all time coming during his lifetime, and ſerving the cure thereat, after the form and tenor of the ſaid act of parliament, preſentation, collation, inſtrument of inſtitution, reference, report and ſtent roll, in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of them to our horn, (after this follow forth the ſtile of a horning and poinding, only let after the form and tenor ſubſequent to the poinding, be *ut ſupra*, and then ſay,) according to juſtice, becauſe the Lords have ſeen (here take in the becauſe on the back of the bill, and then ſay,) as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Some write letters to pay to the collector to be appointed by the heritors preſent, and if none preſent, to the collector to be nominate by the biſhop, in which caſe the letters muſt be raiſed at the collector's inſtance, and his right produced.

Nota, Sometimes miniſters have not a glebe, and at other times the glebe is not of the extent of the act of parliament, and at other times want fuel, foggage, feal and divot; as to all which, the ſaid act, and ſeveral other acts of parliament determine a remedy, and letters accordingly, and in all or either of theſe caſes, as a miniſter ſtands circumſtantiate may be raiſed, and ſo may letters be raiſed for repairing of his manſe, if ruinous, and not in good condition at his entry, founded upon the ſaid acts againſt the heritors, who are ordained ſo to do, and have allowance out of the vacant ſtipends; but in caſe upon the deceaſe or tranſplantation of the laſt incumbent, a miniſter be *inſtanter* inſtaled, and conſequently no vacancy, I ſee no act in that caſe to be a ground of horning, and yet I think the heritors muſt either forbear preſenting for half year, or ſome few days within it, ſo as they may not loſe their privilege of preſentation, and ſuffer the ſame to fall in the churches hands *jure devoluto*, or muſt do it themſelves, or may purſue the laſt incumbent yet alive, or his executors if dead, for the miniſter muſt be accommodate.

CAPTION

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. M. miniſter at that where, upon the day of laſt bypaſt, the perſons *reſpective* after named, all heritors of the ſaid pariſh, were orderly denounced rebels, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to him of their ſeveral proportions after ſpecified, of the ſum of Scots money, impoſed by way of ſtent, for payment of the manſe built within the ſaid pariſh, for the complainer and his ſucceſſors, miniſters at the ſaid kirk their accommodation, and likeways for not-payment making to him of their proportions of the ſum of twenty pounds money foreſaid, appointed by act of parliament to a miniſter for graſs for a horſe and two kine, where graſs cannot be had in the terms of the ſaid act, and that in lieu and place of the ſaid graſs, and that yearly as to the ſaid twenty pounds for the graſs ſince the ſaid complainer his entry to the ſaid charge and function, each one of them for their own parts, as is after divided, *viz.* A. B. of heritor of the lands of the ſum of money foreſaid, as his proportion of the ſaid manſe and the ſum of money above written, as his proportion of the ſaid twenty pound for the ſaid graſs yearly the ſaid years. *Item*, W. C. of as heritor of the lands of the ſum of money foreſaid, as his proportion of the ſaid manſe, and the ſum of money above written, as his proportion of the ſaid twenty pound for the ſaid graſs yearly the ſaid years, *et ſic de cæteris*, according to the horning, ſtent and charge, *uſque ad finem* of all the heritors charged and denounced; and then ſay, and that conform to the act of parliament, reference, report, and ſtent roll, made thereanent, as the ſaid letters of horning, with the executions thereof duly regiſtrate conform to the act of parliament, ſhown to our Lords of Council and Seſſion has teſtified: Under the proceſs of the which horn, the forenamed perſons rebels above ſpecified, have continually lien and abidden ſinſyne, and yet daily haunt, frequent, reſort, and openly repair to kirks, markets, after this follow forth the ſtile of a caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

HORNING *at a Miniſter's Inſtance to repair the Kirk and Kirk-Yard-Dikes.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us, by M. J. M. miniſter of within the dioceſs of that where, by the 76th act of the ninth parliament of Queen Mary, held at Edinburgh the 4th day of June

1563, it is ſtatute and ordained, for upholding and repairing of the pariſh-kirks, and kirk-yards of the ſame, for burying the dead within this realm, that the Lords of ſecret council put order thereto, and adviſe and conſult how the ſame ſhould be done and upholden in times to come, and whatſomever order that they ſhould happen to take for repalleling and upholding of the ſaid kirks and kirk-yards thereof; the queen's majeſty, with the advice of the three eſtates of this realm in the ſaid parliament, declared, that whatſomever orders were made and ſet forth by the ſaid Lords of ſecret council, and execution to be declared by them thereupon, to be ſufficient, and of as great ſtrength and effect, as, and if the ſame had been expreſsly contained in the ſaid act; likeas, by the 54th act of the third parliament of King James the VI. our grandfather of ever glorious memory, held at Edinburgh the 26th day of January 1572, relative to the foreſaid act of parliament, and act of ſecret council made conform thereto, the 13th day of September the ſaid year, his majeſty, with advice of his regent, and three eſtates of parliament, ratified the ſaid acts of parliament and ſecret council with this addition: That where the pariſhioners being required to elect and chuſe perſons for making of the taxation to the effect foreſaid, refuſes or delays, or where there is no kirk maſters, or deacons appointed, that then the archbiſhop, biſhop ſuperintendent, or commiſſioner of the kirks in time of their viſitation, nominate and appoint at their diſcretion, perſons in every pariſh, for making and ſetting of the taxation, as alſo for receiving of the ſame, and decerned and declared the ſaid denomination and appointment to be ſufficient, and ſicklike, execution to paſs for compelling of them, as might have been given and granted, by virtue of the ſaid act of ſecret council, in caſe they had been elected by the pariſhioners, and in like manner by the 232d act of the fifteenth parliament of the ſaid King James the VI. held at Edinburgh the 19th day of December 1597, intituled kirk-yard dikes ſhould be bigged, it is ſtatute and ordained, that all pariſhioners of every pariſh kirk within this realm, build and repair the kirk-yard dikes of their own pariſh kirk with ſtone and morter, to the height of two ells, and to make ſufficient ſtiles and entries in the ſaid dikes, to paſs to the kirk and kirk-yard thereof, as the ſaid acts of parliament ordaining letters to be direct thereupon by the Lords of Council and Seſſion, in manner under-written, in themſelves more fully proport, and albeit it be of verity, that the ſaid complainer as preſent miniſter, ſerving the cure at the ſaid kirk of has oft and divers times deſired and required the heritors, liferenters and wadſetters of the lands and others within the ſaid pariſh, to build and repair the ſaid kirk which is now ruinous in the walls, thatch and timber thereof, doors and windows of the ſame, as alſo to big the kirk-yard dikes of the ſame, to the height above ſpecified, and to make ſufficient ſtiles and entries in the ſaid dikes, to paſs to the kirk and kirk-yard thereof; nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled thereto as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority command and charge the ſaid heritors, liferenters and wadſetters of the lands, and others lying within the ſaid pariſh, perſonally, or at their dwelling-place,

place, to build and repair the ſaid pariſh kirk of in the walls, timber, thatch, doors and windows thereof, and all other places deficient; as alſo to build the dikes of the ſame to the height, and of the quality above-mentioned, and for that effect to meet and ſet down a ſtent, and appoint ſtent-maſters, and perſons for uplifting and receiving thereof, with certification if they fail, the biſhop of the dioceſs will nominate and appoint perſons for making and ſetting down of the ſaid taxation; and likeways after receiving of the ſame, either by the ſaid pariſhioners their appointment, or in caſe of their refuſal or delay, by the ſaid biſhop, or ſuch perſons as he ſhall appoint, to be applied for the uſe and ends aforeſaid: And the ſaid ſtent being ſo ſet down, that ye, in our name and authority, command and charge the ſaid heritors, liferenters and wadſetters, to make payment of the ſaid taxation to the perſons to be appointed for receiving thereof, each one of them for their own parts, according to the ſaid appointment and ſtent-roll to be ſet down for that effect, after the form and tenor of the ſaid acts of parliament, act of ſecret council, and ſtent-roll aforeſaid, in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of them to our horn, (after this follow forth the ſtile of a horning, but not poinding, and then ſay) according to juſtice, conform to the acts of parliament and ſecret council, as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and then conclude with

Ex deliberatione Dominorum Concilii.

Nota, I have ſeen ſeveral of thir letters, but contained no poinding, and I know no reaſon for it, but proceeding upon a ſtent roll, it was judged too ſummary, leſt parties leſed might have little time to redreſs themſelves by ſuſpenſion, and yet reaſon would incline that poinding ſhould be in thir letters as well as the former, but I follow what I have ſeen.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. M. miniſter of and A. B. of collector after ſpecified; that where, upon the day of laſt bypaſt, the perſons reſpective after named, heritors, liferenters and wadſetters of the lands, and others lying within the ſaid pariſh of were orderly denounced rebels, and put to the horn, by virtue of letters of horning, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to the ſaid M. J. M. at leaſt to the ſaid A. B. of as collector, appointed for that effect, conform to his commiſſion and factory, dated the day of alſo laſt bypaſt, regiſtrate in the books of day of alſo laſt bypaſt, of their ſeveral proportions after ſpecified, of the ſum of Scots money, ſtented for bigging and repairing of the ſaid kirk, and kirk-yard dikes thereof, with ſtiles and entries thereto, to the height, and of the quality mentioned in the ſeveral acts of parliament,

ment, and act of council made thereanent, each one of them for their own parts as is after divided; *viz.* (here inſert each man's proportion according to the ſtent-roll, and particular charge given by the meſſenger accordingly, and then ſay) and which ſtent-roll is dated the day of years, as the ſaid letters of horning, with the executions thereof duly regiſtrate, conform to the act of parliament, with the ſaid ſtent-roll and factory ſhown to our Lords of Council and Seſſion has teſtified. Under the proceſs of the which horn, the forenamed perſons have continually lien and abidden ſinſyne; and yet daily haunt, frequent, reſort, and openly repair to kirks, markets; (after this follow forth the ſtile of a caption *uſque ad finem*; only after according to juſtice ſay,) becauſe the Lords have ſeen the regiſtrate horning, ſtent-roll and factory above written, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, The reaſon why the ſtent roll and factory are mentioned in the caption, is, becauſe the horning being raiſed at the miniſter's inſtance, only to meet, and ſtent and appoint a collector to receive: there is a neceſſity for production of both; the one to clear the proportions, and the other, that they may know to whom they are to pay. 2. Albeit the miniſter be only complainer in the horning; yet the collector at whoſe inſtance the heritors, *&c.* were charged to make payment, is likewiſe now complainer; becauſe by his factory, being the party to receive, is the perſon moſt proper to put the caption in execution, rather than the miniſter who has no power to receive: And beſides, for a miniſter to put caption in execution at his inſtance againſt his own pariſhioners, would appear unfavourable and eccentric to his holy function, if not invidious; albeit the ſubject-matter be religious, and that which men ſhould do without compulſitors.

LETTERS *of Horning at the Inſtance of a Schoolmaſter, for Payment of his Salary.*

GEORGE, *&c.* to meſſengers, *&c.* humbly meaned and ſhown to us by M. W. D. ſchoolmaſter of the pariſh of within the dioceſs of that where, by the fifth act of the firſt parliament of King Charles the I. of ever bleſſed memory, held by himſelf preſent in perſon, upon the 28th day of June 1633, intituled the ſaid act, ratification of rhe act of council of the plantation of ſchools, his majeſty, with the advice of the ſtates, ratified the act of ſecret council, dated at Edinburgh the 10th day of December 1616, made anent the planting of ſchools; with this addition, that the biſhops in their ſeveral viſitations, ſhall have power, with conſent of the heritors and moſt part of the pariſhioners; and if the heritors being lawfully warned, refuſe to appear; then with conſent of the moſt part of the pariſhioners, to ſet down and ſtent upon every plough or huſband land according to the worth, for maintenance and eſtabliſhing of the ſaid ſchools: And if any perſon ſhall find himſelf grieved, it ſhould be lawful to him,

to

to have recourſe to the Lords of ſecret council, for redreſs of any prejudice he might or doth ſuſtain, as the ſaid act of parliament of the date foreſaid; ordaining letters to be direct for charging of the poſſeſſors for the time, to anſwer and obey the ſchoolmaſters of their duties that ſhould be appointed, in manner foreſaid in itſelf more fully proports. And true it is, that the ſaid complainer was upon the day of years, called and preſented by the heritors, miniſter and elders of the ſaid pariſh, to be ſchoolmaſter within the ſaid pariſh during his lifetime: and deſigned and appointed for him in name of ſtipend or ſalary, bolls bear bolls oat meal, and of money; to be paid to him out of the ploughs of land after ſpecified, lying within the ſaid pariſh, by the poſſeſſors for the time; each one of them for their own parts, and according to their ſeveral proportions thereof, as is particularly after divided, *viz.* (here inſert the perſons lands out of which payable, and reſpective proportions, and then ſay) and that yearly during his continuance of being ſchoolmaſter there; the ſaid victual to be paid between Yule and Candlemaſs yearly, and the ſaid money at the terms of yearly; beginning the firſt year's payment of the ſaid victual between Yule and Candlemaſs then next, for the crop and year years; and the ſaid money at the terms of alſo for the ſaid year, and ſo forth yearly the ſaid victual; and termly the ſaid money during the ſpace above ſpecified; conform to the ſtent-roll ſubſcribed and ſet down thereanent: And accordingly the complainer was approven of by the biſhop of the dioceſs and preſbytery of upon the day of and admitted and received by the miniſter and elders of the ſaid pariſh, the heritors or major part then preſent, upon the day of thereafter, as the ſaid preſentation, approbation and admiſſion ſhown to our Lords of Council and Seſſion have teſtified. And albeit it be of verity, that the ſaid complainer has oft and divers times deſired and required the preſent poſſeſſors of the ſaid lands, lying within the ſaid pariſh, to make payment to him of the ſaid victual and money, allocate and appointed for his ſaid ſtipend and ſalary, as ſchoolmaſter foreſaid, of all years and terms bygone, reſting, owing, unpaid ſince his ſaid entry to the ſaid charge, and ſicklike yearly and termly in time coming, during his continuance therein, each one of them for their own parts, and according to their ſeveral poſſeſſions as ſaid is; nevertheleſs, they wrongouſly refuſe, poſtpone and defer to do the ſame, without they be compelled, as is alledged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the forenamed perſons, preſent poſſeſſors of the lands and others above ſpecified, lying within the ſaid pariſh, and their ſucceſſors in their reſpective poſſeſſions thereof, perſonally or at their dwelling-places, to anſwer, obey, and make payment to the ſaid complainer as ſchoolmaſter foreſaid, of his ſaid victual and money ſtipend, or ſalary; and that of all years and terms bygone, reſting, owing, unpaid ſince his ſaid entry to the ſaid charge; and ſicklike yearly and termly in time coming, during his abode and continuance therein, the terms of payment of the ſame being always firſt come and bygone, and each one of them for their own parts, and according to their ſeveral poſſeſſions above mentioned,

tioned, after the form and tenor of the ſaid acts of parliament and privy council, preſentation, approbation, admiſſion and ſtent above ſpecified in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of them to our horn, (after this follow forth the ſtile of an ordinary horning without poinding) and then according to juſtice, conform to the act of parliament and ſecret council, becauſe the Lords have ſeen the preſentation, approbation, admiſſion and ſtent-roll above expreſſed, as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. W. D. ſchoolmaſter of the pariſh of within the dioceſs of that where, upon the day of laſt bypaſt, the perſons *reſpective* after named, were orderly denounced rebels and put to the horn, by virtue of letters of horning, raiſed, uſed, and execute againſt them at the inſtance of the ſaid complainer, for not anſwering, obeying and making payment to him of the victual after ſpecified, of the quality after mentioned, and of the ſum of Scots money, all due by them to him as ſchoolmaſter foreſaid, yearly ſince his entry to the ſaid charge, which as to the ſaid victual, was of the crop and year years; and as to the ſaid money of the term of the ſaid year, out of the lands under written, lying within the ſaid pariſh, each one of them for their own parts, as is particularly after divided, *viz.* (here inſert each man's proportion of victual and money, and land out of which payable, and the terms and crops for which due, according to the ſtent-roll, or agreement contained in the horning, and the charge given) and to which charge and office, the complainer was duly and lawfully preſented upon the day of years; approven of by the ordinary of the dioceſs, and preſbytery of the day of and accordingly admitted and received the day of the ſaid year; as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion have teſtified. Under the proceſs of the which horn, the forenamed perſons rebels foreſaid, have continually lyen and abidden ſinſyne, and yet daily haunt, frequent, reſort, and openly repair to kirks, markets; (after this follow the ſtile of an ordinary caption *uſque ad finem*) and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Note, I have ſeen letters of horning at the miniſter's inſtance againſt his pariſhioners, founded upon an act of parliament then in force, but afterwards repealed; amongſt other acts after his majeſty's happy reſtoration, bearing, that each pariſh ſhould have

a

a ſchool and ſchoolmaſter, whoſe fees or ſalary ſhould not be below one hundred merks, nor above two; which if any neceſſity for, or hereafter practicable, is eaſily raiſed, and ſo needs not a preſent ſtile.

HORNING *for Implement of a Back-Bond as to a Truſt.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas A. B. of by his back-bond dated the day of years, making mention, that albeit C. D. of had acquired the right of an appriſing, deduced at the inſtance of W. M. of againſt G. D. of his lands and eſtate, upon the day of years, for the ſum of Scots money of principal, and ſheriff-fee correſpondent, and taken the ſaid right in the ſaid A. B. his perſon, and that the ſaid right did bear to be granted to the ſaid A. B. by the ſaid W. M. yet the truth was, the ſaid ſums were truly paid by the ſaid C. D. and the right of the ſaid appriſing acquired by him in the perſon of the ſaid A. B. only in truſt, and for the uſe and behoof of the ſaid C. D. his heirs and aſſignees, and therefore the ſaid A. B. bound and obliged him, his heirs and ſucceſſors to denude themſelves of the ſaid appriſing, grounds and warrants thereof, and infeftment, if any ſhould follow thereupon, and ſums therein contained, and thereby due of the law, with all that followed or might follow upon the ſame, in favour of the ſaid C. D. and his foreſaids, with warrandice from the ſaid A. B. and his foreſaids, their own proper facts and deeds allenarly, and to deliver up to the ſaid C. D. and his foreſaids the ſaid appriſing, grounds and infeftments, with all that ſhould follow thereon, and right and diſpoſition made by the ſaid W. M. to him thereof, being always paid of any neceſſary expences deburſed by them in the ſaid matter, if any were, as the ſaid back-bond, of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon in manner under written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. perſonally, or at his dwelling-place, to denude himſelf of the ſaid appriſing, grounds thereof, infeftment following thereupon, ſums of money therein contained, and thereby due of the law, and right made to him and his foreſaids thereof, in favour of the ſaid C. D. and his foreſaids, and to deliver up to them the ſaid appriſing, grounds thereof, infeftments following thereon, and right aforeſaid made to them by the ſaid W. M. as ſaid is, with warrandice in manner above expreſſed, upon payment to them of any neceſſary expences they were at in the ſaid matter, in manner foreſaid, after the form and tenor of the ſaid back-bond, and decreet interponed thereto, in all points, within days, to be ruled by the clauſe of regiſtration therein contained, next after the charge, under the pain of rebellion, and putting of him to our horn, (after this

follow forth the ſtile of a horning, but no poinding, and then ſay) according to juſtice, as ye will anſwer, *&c.* and the date of the regiſtration muſt be the date of the letters, and then conclude with

Per decretum Dominorum Concilii.

Nota, If the back-bond doth not bear ſix, ten, or fifteen days, but in form as effeirs, then the letters muſt paſs by bill, as has been formerly enjoined, and it will be the more favourable for the charger, that he require the truſtee under form of inſtrument to denude, and make offer of the expences deburſed; and which inſtrument, as well as the regiſtrate back-bond, would be produced to the Lords in the bill to be given in for that effect, rather than a horning ſummarly raiſed on the back-bond.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* greeting: Foraſmuchas, it is humbly meaned and ſhown to us by C. D. of that where, upon the day of laſt bypaſt, A. B. of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not denuding himſelf of the appriſing, led and deduced at the inſtance of W. M. of againſt G. D. of and his lands and eſtate, upon the day of years, with the grounds thereof, and infeftments following thereupon, if any was, and ſums of money therein contained, and thereby due of the law, with all that followed thereupon, and of the right granted by the ſaid W. M. to the ſaid A. B. his heirs and aſſignees of the ſame, with warrandice from their own facts and deeds, and that to and in favour of the ſaid complainer, his heirs and aſſignees, and for not-delivering up to the complainer the ſaid appriſing, grounds thereof, infeftment and right made by the ſaid W. M. to him as ſaid is, upon payment of any expence neceſſarily deburſed by the ſaid A. B. in the ſaid matter, if any were, and that as being but a truſt in the ſaid A. B. his perſon, to the uſe and behoof of the ſaid complainer and his foreſaids, conform to the back-bond granted by the ſaid A. B. to him and his foreſaids thereupon, of the date the day of years, regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, (6) as the ſaid letters of horning, with the executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified, under the proceſs of the which horn, the ſaid A. B. rebel foreſaid has continually lien and abidden ſinſyne, and yet daily and continually haunts, frequents, reſorts, and openly repairs to kirks, markets, (after this follow forth the ſtile of any caption, *uſque ad finem,*) and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota,

Note, If the truſtee was required under form of inſtrument to denude, and the expence offered, it is fit the caption, as well as the horning, bear the ſame at this figure of (6).

HORNING *for Implement of a Minute of Contract anent the Sale of Lands.*

GEORGE, *&c.* to *&c.* meſſengers *&c.* meaned and ſhown to us by A. B. of that where, by minute of contract made and paſſed between C. D. of and the ſaid complainer on the one and other parts, of the date the day of years, the ſaid C. D. for the ſum of Scots money, paid, and to have been paid by the ſaid complainer to him, the way, manner, and at the terms therein ſpecified, bound and obliged him, his heirs and ſucceſſors, to obtain the full heritable and irredeemable right of all and ſundry the lands of (here inſert the lands and others contained in the obligation of the minute lying within the pariſh of and ſheriffdom of) legally and validly eſtabliſhed in his perſon, and being ſo eſtabliſhed, to ſell, annalzie, and diſpone the ſame in favour of the ſaid complainer, his heirs and aſſignees therein mentioned, heritably and irredeemably, with all right he had or could pretend thereto, and to infeft and ſeize them therein by double infeftments in manner of boldings, to be held *a me* or *de me*, in the complainer's option, and in manner therein expreſſed, and to make, grant, ſubſcribe and deliver to the ſaid complainer and his foreſaids, ſufficient diſpoſitions, (6) containing procuratories of reſignation, charters containing precepts of ſeiſin, and other ſecurities requiſite and neceſſary thereanent, with abſolute warrandice againſt all real incumberances and grounds of eviction whatſomever, bygone, preſent and to come, and likeways to purge the ſaid lands and others foreſaid of all ſuch incumberances that ſhall be detected from regiſters, and purchaſe and obtain to the ſaid complainer and his foreſaids, either ſufficient renunciations and diſcharges of any ſuch incumberances, or thoſe in the right and title thereof, their conſents to the ſaid bargain and diſpoſition to be extended thereupon, and to aſſign them to the writs and evidents of the ſaid lands and others foreſaid in ample form, and to deliver the ſame to them upon inventory, and to make appear that the progreſs thereof is full and complete, and if any thing defective therein, to make the ſame up at the ſight, and by the advice of lawyers, and to aſſign to them the mails and duties of the ſaid lands and others foreſaid, of the crop years, and hail terms thereof, both victual and ſilver, cuſtoms and ſervices, and to the tack and rights of the teinds of the ſaid lands, and prorogations thereof, and benefit of the ſame, both as to the parſonage and vicarage, alſo of the ſaid crop, and of both lands and teinds in all time coming, and to make appear to the ſaid complainer and his lawyers, that the right of the ſaid teinds is valid, and are to continue unexpired, and without any defect and nullity therein, for the ſpace of liferents, and nineteen years after the ſaid C. D. his own deceaſe, and that the ſaid teinds pay no more yearly to

the titular miniſters, or any other perſon but bolls bear, (here inſert what elſe payable, and with the burden of the payment whereof, the ſaid crop, and in time coming, the right of the ſaid teinds is to be granted, and the ſaid C. D. and his foreſaids, obliged to warrant againſt all future augmentations, attour the preſent duty, and what paid to the miniſter as ſaid is, and in caſe by any ſupervenient law, any augmentations be granted upon the ſaid teinds, or they otherways affected or evicted, the ſaid C. D. and his foreſaids are to ſecure againſt the ſame, and to repeat proportionally, and effeiring and correſpondent to any ſuch augmentation or eviction, the complainer having paid as much for the chalder of free teind as for the ſtock, and in caſe, after production of the right of the ſaid teinds, any defect at preſent may be found therein, and which *in fine* may be a ground of eviction, the ſaid C. D. and his foreſaids, are obliged inſtantly to make up the ſaid defect or default proportionally of the price, and the ſaid C. D. obliged him and his foreſaids to perform the whole premiſſes to the ſaid complainer and his foreſaids, between the date of the ſaid minute and the day of thereafter, and to make and cauſe his lady ſubſcribe conſenter to the ſaid right, and out-with his own preſence, ratify the ſame judicially, under the pain of money foreſaid, to be paid by him and his foreſaids to the ſaid complainer and his above-written, in name of liquidate penalty in caſe of failzie, and that by and attour performance, and together therewith, as the ſaid minute of contract of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day of alſo laſt bypaſt, ordaining thir our letters to be direct thereupon in manner underwritten, ſhown to our ſaid Lords of Council and Seſſion has teſtified, likeas upon the day of alſo laſt bypaſt, being the very day upon which both parties were obliged to perform their parts of the ſaid minute *hinc inde*, the ſaid complainer lawfully offered to fulfil his part of the ſaid minute *inſtanter et in terminis*, to the ſaid C. D. perſonally, and *de facto*, then, and there actually produced, all he was bound to perform, and required the ſaid C. D. to do the like, and he refuſing, or not in capacity to do it, the complainer proteſted againſt him, and that the complainer himſelf was free of the penalty on his part, and that the ſaid C. D. had incurred the penalty on his part, and was liable in payment thereof attour performance, as authentic inſtruments taken thereupon in the hands of notary publick (7) alſo ſhown to our ſaid Lords of Council and Seſſion have teſtified; and albeit it be of verity, that the ſaid complainer has oft and divers times deſired and required the ſaid C. D. to have fulfilled to him the ſaid minute of contract, in the haill heads, obligements, articles and clauſes thereof above-written, and to have made payment to him of the foreſaid penalty incurred by him through not-performance of the ſame, in due time as ſaid is; nevertheleſs, he wrongouſly refuſes, poſtpones and defers to do the ſame, without he be compelled, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling-place, to obſerve, keep and fulfil to the ſaid complainer, the foreſaid minute of contract, in the

the haill heads, obligements, articles and clauſes thereof above-written, and to make payment to the ſaid complainer of the foreſaid ſum of of penalty therein contained, incurred by him through not-performance thereof in due time, in manner above expreſſed, after the form and tenor of the ſaid minute of contract, decreet interponed thereto, and inſtruments above ſpecified, in all points, within days, to be ruled by the minute, and if no days therein, but in form as effeirs, make it on fifteen, next after the charge, under the pain of rebellion, and putting of the ſaid C. D. to our horn. After this follow forth the ſtile of an ordinary horning, but not poinding, the ſubject matter not being liquid, except as to the penalty, for which, being only annexed and adjected to the performance of the obligements, there is no ſummary execution by poinding, and then ſay, according to juſtice, becauſe the Lords have ſeen the regiſtrate minute, and inſtruments above-written, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, It may be aſked ſince the minute in the clauſe of regiſtration bears days, why doth this horning paſs by bill more as others? It is anſwered, becauſe of the inſtrument.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us, by A. B. of that where, upon the day of laſt bypaſt C. D. of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not obtaining the full heritable and irredeemable right of all and ſundry the lands of (here inſert them as in the horning) lying within the pariſh of and ſheriffdom of legally and validly eſtabliſhed in his perſon, and being ſo eſtabliſhed for not ſelling, annalzieing and diſponing the ſame in favour of the ſaid complainer, his heirs and aſſignees ſpecified in the minute after mentioned, heritably and irredeemably, with all right he had or could pretend thereto, and for not infefting and ſeizing them therein, by double infeftments, and manner of holdings to be held *a me* or *de me*, in their option, in manner ſpecified in the ſaid minute, and for not granting, ſubſcribing and delivering to the ſaid complainer and his foreſaids ſufficient diſpoſitions, (here take in from the 6 figure in the narrative of the horning, till ye come to the 7 figure, with theſe alterations. 1. Whereas the horning bears in all its narrative to do ſuch a thing, and to do ſuch a thing in the infinitive in the caption, ye muſt ſay in the ablative, for not doing ſuch a thing. 2. Whereas the horning bears, as the ſaid minute regiſtrate ſuch a day, and ordaining execution to paſs thereon, ye muſt ſay only, and which minute was regiſtrate in the books of Council and Seſſion ſuch a day, month

month and year. 3. Whereas the horning bears, as authentic inſtruments, *&c.* ſhown to the Lords, *&c.* ye muſt only ſay in the caption and inſtruments taken thereupon in the hands of notary public, for in a caption, nothing is produced but the regiſtrate horning, and then ſay, as the ſaid letters of horning, and executions thereof duly regiſtrate conform to the act of parliament, ſhown to our Lords of Council and Seſſion have teſtified; under the proceſs of which horn, the ſaid C. D. rebel foreſaid has continually lien and abidden ſinſyne, and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* (After this follow forth the ſtile of an ordinary caption *uſque ad finem*,) only let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii

HORNING *upon a Contract or Indenture of Marches, bearing Days in the Clauſe of Regiſtration.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* greeting: Foraſmuchas, by indentures of marches, made by way of contract, between A. B. of and C. D. of on the one and other parts, of the date the day of years, making mention, that they and their predeceſſors being neighbouring heritors, and a conſiderable part of their eſtate lying contiguous, did for many years continue in a firm peace, love and amity, until of late, that ſome controverſy and debates in point of marches have ariſen amongſt them, and more by the inſtigation of ſome of their tenants than their own inclinations, and ſhould they go to law upon that head, as the expence would prove great, ſo the advantage that either party would *in fine* propoſe to himſelf or ſucceſſors, could not be of great value, beſides the bad effects of animoſities between neighbours, even in their own time, and the evil preſages of a viſible ſeed of plea to their poſterity; and conſidering, that difference in marches have expoſed men to great hazards, yea the effuſion of blood, and irradication of fortunes and eſtates, beyond that they can pretend to, and being willing to obviate all inconveniences of that nature, and to live in peace and unity together, and to tranſmit the like bleſſing to their poſterity: Therefore, and notwithſtanding of whatever either of the ſaid parties their juſt pretences might be, either in point of right or poſſeſſion immemorially, they fully, freely, frankly and peaceably agreed, accorded and reſolved all their debates and controverſies relating to their marches in the terms following, *viz.* in the firſt, it was agreed and condeſcended, that the ſaid A. B. his march on the ſouth of his lands of ſhall begin at and extend itſelf to and that the march of his lands of ſhall begin at and extend itſelf to and that in property to remain with him, his heirs and ſucceſſors as ſuch for ever in all time coming; and, in the next place, that the ſaid C. D. his march of his lands of ſhall begin at the eaſt from and extend itſelf to

and that in property to remain with him, his heirs and ſucceſſors, as ſuch for ever in all time coming, and for the better clearing of the ſaid marches, and that there might be no miſtakes for the future, both the ſaid parties bound and obliged them and their foreſaids, between and the day of then next, to have their own march ſtones in readineſs, conſiſting of one ell and half in height, and in ſquare, with the initial letters of their names in the top of their own march ſtones for diſtinction, and the next day thereafter, to compear on the ground where the reſpective marches begin, and terminate between the hours of in the forenoon, accompanied and attended with all their men tenants and ſervants, and then and there in their preſence, fix and ſet the ſaid march-ſtones in their reſpective places, where the ſaid marches are appointed to begin and terminate in manner foreſaid, and as to the other marches of the ſaid parties their lands adjacent: It was agreed and condeſcended, that the ſame continue as formerly by the old dikes, and becauſe the ſaid dikes are failing, and may, in a ſhort time ſo fail as they may become inviſible, and no veſtige thereof remaining, which may occaſion new debates and controverſies, albeit not in this age, yet in after times, therefore both parties oblige them and their foreſaids, to cauſe their tenants jointly caſt feal at the root of the ſaid old dikes, and build dikes to the height of ſix quarters on the old found, and that between and the ſaid day, and how often either the ſaid march ſtones fall down, or the ſaid dikes decay, to ſet up the ſaid ſtones in their proper places, and rebuild the ſaid dikes on the ſame found; and, in the third place, as to the commonty in debate between the ſaid parties, it was agreed and condeſcended, that the hills and muirs of ſhall be poſſeſſed by the ſaid parties and their foreſaids, and tenants and poſſeſſors of their reſpective lands and eſtates, as commonty in all time coming, without any claim or pretext to be made by either of them or their foreſaids thereto as property for the future, and both parties bound and obliged them, their heirs and ſucceſſors, to diſcharge one another of all letters of lawburrows and contraventions *hinc inde*, and to fulfil the premiſes to one another between and the day of then next, but any longer delay, and the party failing to pay to the party obſerver, or willing to obſerve the ſame, the ſum of Scots money, in name of liquidate penalty in caſe of failzie, and that by and attour performance, and together therewith, as the ſaid indentures, made by way of contract as ſaid is, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of our Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling-place, to have his ſaid march ſtones in readineſs, and to ſet the ſame in the places above ſpecified, appointed for that effect, in preſence of both parties, tenants and ſervants, as ſaid is, and to cauſe his ſaid tenants, jointly with the ſaid A. B. his tenants, caſt the ſaid feal in the place aforeſaid, and build the ſaid dike therewith upon the found of the ſaid old dike, and to fulfil to the ſaid A. B. the ſaid contract or

indentures

indentures in the haill remanent heads thereof, in ſo far as he ſtands obliged to him thereby, and make payment to him of the ſaid penalty, after the form and tenor thereof, and decreet interponed thereto in all points, within days, to be ruled according to the clauſe of regiſtration, next after the charge, under the pain of rebellion, and putting of him to our horn, (after this follow forth the ſtile of an ordinary horning, and then ſay,) according to juſtice, as ye will anſwer, *&c.* and let the date of the regiſtration be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

Nota, Some parties, becauſe of the penalty, require the other party upon the day appointed to perform, and proteſt for the failzie, and in effect is the better way, and in that caſe the horning muſt paſs by way of bill, and the inſtrument, as well as the contract or indentures, muſt be produced, and the deliverance of the bill bears no leſs, and the date of the bill muſt be the date of the letters, and remember there muſt be no poinding in the letters, being a penalty adjected to the preſtation of obligements, and not for liquid ſums, and conclude with

Ex deliberatione Dominorum Concilii.

CAPTION *upon the ſaid firſt Horning upon the Contract or Indentures, without Relation to the Inſtrument.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of that where, upon the day of laſt bypaſt, C. D. of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him; at the inſtance of the ſaid complainer, for not having his march ſtones in readineſs, and fixing and placing the ſame at and at where the ſaid complainer and the ſaid C. D. their lands of at the South Meit, and at and where the ſaid complainer and the ſaid C. D. his lands of meet, and at and where the ſaid C. D. his lands and the complainers lands of meet at the eaſt, to be fixed by both parties in preſence of their men tenants and ſervants jointly, and with the ſaid complainer, and C. D. their initial letters of their names on the top of the ſaid ſtones, of the height and ſquare and breadth ſpecified in the contract under-written; and alſo, for not caſting of feal jointly with the ſaid complainer his tenants at the foot of the old dike, between the lands of and and not building therewith a dike of an ell and a half in height upon the old found, for preſervation of that part of their march, conform to the indentures of marches after ſpecified: And laſtly, for not obſerving, keeping and fulfilling to the ſaid complainer of the ſaid indentures of marches, made by way of contract between them, anent the marches aforeſaid, and their commonty dated the day of years, regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, and for not-payment to the ſaid complainer of the penalty

nalty of Scots money therein contained (6) as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion have teſtified: Under the proceſs of the which horn, the ſaid C. D. rebel foreſaid has continually lien and abidden ſinſyne, and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* (After this follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters,) and conclude with

Ex deliberatione Dominorum Concilii.

Nota, If there be an inſtrument mentioned and produced in the horning as has been ſaid, then after the (6) figure add, and conform to an inſtrument taken againſt him, in the hands of notary publick, the day of laſt bypaſt.

HORNING *at an Heritor's Inſtance againſt his Tackſman, for Payment of the Tack-duty.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas, by tack made by way of contract, between A. B. of and J. M. in on the one and other parts, of the date the day of years, the ſaid J. M. for the tack and aſſedation of the lands of (here inſert as in the tack) whether only ſtock, or ſtock and teind ſet by the ſaid A. B. to him, his heirs and ſub-tenants of no higher degree than himſelf, for the ſpace of crops and years next, and immediately following his entry thereto, which was for the houſes and graſs at the term of and as to the lands at the ſeparation of the crop from the ground the ſaid year, bound and obliged him, his heirs, *&c.* to content and pay to the ſaid A. B. his heirs and aſſignees, all and haill (here take in the tack-duty, both victual and its quality, ſilver rent, cuſtoms and carriages) and that yearly, during the whole ſpace of the ſaid tack, beginning the firſt year's payment of the ſaid victual-duty between Yule and Candlemaſs years; and the firſt term's payment of the ſaid money rent at the term of and the firſt term's payment of the cuſtom-wedders at and of the hens and capons at and of the cuſtoms and carriages at the times uſed and wont; and ſo forth yearly and termly thereafter at the terms and times of payment above mentioned, during the whole ſpace of the ſaid tack. And both parties bound and obliged them, their heirs and executors, to fulfil and perform the ſaid tack to one another; and the party failing to content and pay to the party obſerver, or willing to obſerve the ſame, the ſum of Scots money, in name of liquidate penalty in caſe of failzie, and that by and attour performance, and together therewith, as the ſaid tack made by way of contract as ſaid is, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of our Lords thereof interponed thereto, upon the day and date of thir preſents; ordaining thir our letters of

horning and others neceſſary to paſs thereupon, in manner under-written at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid J. M. *&c.* to make payment to the ſaid A. B. of the ſaid victual rent of the quality foreſaid; and of the ſaid money rent, cuſtoms and ſervices above ſpecified, of all years and terms bygone, reſting, owing, unpaid ſince his ſaid entry to the ſaid lands and others foreſaid; and ſicklike, yearly and termly in time coming, during the haill years and ſpace of the ſaid tack, the terms of payment of the ſame being firſt come and bygone; and ſicklike, to make payment to him of the ſaid penalty for each year's or term's failzie, after the form and tenor of the ſaid tack, and decreet interponed thereto in all points, within days, to be ruled by the clauſe of regiſtration, next after the charge, under the pain of rebellion and putting of him to our horn; (follow forth the ſtile of a horning and poinding, but in the cloſe of the poinding, ſay) to the avail and quantity of the ſaid liquidate ſums, and make the ſaid A. B. completely paid thereof, after the form and tenor of the ſaid tack and decreet interponed thereto in all points, according to juſtice as ye will anſwer, *&c.* And let the date of the regiſtration be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by A. B. of that where, upon the day of laſt bypaſt, J. M. in now tackſman of the lands and others after ſpecified, was orderly denounced rebel and put to the horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not-payment making to him of (here take in what of the duties are reſting, and charged for allenarly, becauſe there may be more contained in the tack than is due) and then ſay, and alſo of the ſum of Scots money of penalty, contained in a tack, made by way of contract, between the ſaid complainer and the ſaid J. M. dated the day of years; and whereby the complainer ſet to him the lands of (here inſert the lands and others as in the tack) for payment of the tack-duty therein ſpecified during the years, and of the terms and times therein expreſſed; and whereof the victual, money rent and cuſtoms, with the ſervices above-written, (for which the ſaid J. M. is denounced as ſaid is,) are a part; and which tack is regiſtrate in the books of Council and Seſſion the day of years, as the ſaid letters of horning, with the executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion have teſtified. Under the proceſs of the which horn, the ſaid J. M. rebel foreſaid, has continually lien and abidden ſinſyne; and yet daily haunts, frequents,

frequents, reſorts, and openly repairs to kirks, markets, *&c.* After this follow forth the ſtile of an ordinary caption *uſque ad finem*, and make the date of the bill the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

LETTERS *of Horning for Implement of a Decreet Arbitral.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* greeting; foraſmuchas, A. B. of and C. D. of having, by their ſubmiſſion of the date the of years, ſubmitted to M. J. B. of and M. W. M. of as judges arbitrators, and amicable compoſitors, elected, nominate and choſen by them, and in caſe of variance between them, to any perſon whom they ſhould pleaſe nominate and appoint overſman, all debts, ſums of money, clags, claims, queſtions, debates and controverſies between the ſaid parties, and all actions and ſuits of law commenced by either of the ſaid parties, againſt others thereanent; and all acts and interlocutors made therein, and probation made uſe of, and led and deduced in the ſaid actions, and what elſe they might aſk, ſeek or crave of one another, or had to lay to one another's charge, for whatſomever cauſe, fact, deed or occaſion bygone, preceding the day and date of the ſaid ſubmiſſion; and what either of them ſhould do or perform to others, in relation to the premiſes, conform to the claims and anſwers to have been given in by them *hinc inde* againſt one another, to the ſaid arbitrators or overſman, in caſe of variance between them, thereanent; and all holden as for expreſſed in the ſaid ſubmiſſion *brevitatis cauſa*, with power to determine therein, between and the day of then next, and obliged them to adhere thereto and fulfill the ſame, under the pain of Scots money, attour performance. Likeas, the ſaid arbitrators, having accepted in and upon them the deciſion of the ſaid matters, debateable and controvertable between the ſaid parties; and having not only received in both parties claims and anſwers in relation thereto; but alſo fully heard both parties thereanent: and having God and a good conſcience before their eyes, they, by their decreet arbitral, given and pronounced by them in the premiſes, upon the day of years, written and filled up in the blank on the back of the ſaid ſubmiſſion, ſubſcribed by the ſaid parties before famous witneſſes, decerned and ordained, and gave forth, pronounced and delivered their decreet and final ſentence arbitral in the ſaid matter as follows: In the firſt, they decerned and ordained, (here take in the decernitor as to both parties, and the time prefixed for implement, and then ſay) and ordained both parties to fulfil and perform the premiſes to one another, between and the day of then next to come; and the party failing, to content and pay to the party obſerver, or willing to obſerve the ſame, the ſum of money foreſaid, being in effect the penalty contained in the ſaid ſubmiſſion, in name of liquidate penalty in caſe of failzie, and that by and attour per-

formance, and together therewith as the ſaid ſubmiſſion, conſenting the ſame with the decreet arbitral to follow thereupon, be regiſtrate in manner after ſpecified: And the ſaid decreet arbitral itſelf, ordaining the ſame, with the ſaid ſubmiſſion, to be alſo regiſtrate in manner under-written; and accordingly both inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon, in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling-place, to fulfil and perform to the ſaid A. B. the foreſaid decreet arbitral, in the haill heads, articles and clauſes thereof, in ſo far as the ſaid C. D. ſtands obliged, and decerned to him thereby; and to make payment to the ſaid A. B. of the foreſaid penalty of money foreſaid therein contained, after the form and tenor of the ſaid ſubmiſſion, decreet arbitral following thereupon, and decreet of the ſaid Lords interponed to both in all points, within days, to be ruled by the ſubmiſſion and decreet arbitral, next after the charge, under the pain of rebellion, after this follow forth the ſtile of an ordinary horning, but no poinding, except the decreet arbitral bear liquid ſums to be decerned; and then for thoſe ſums and penalty, there may be poinding; and then ſay, according to juſtice as ye will anſwer, *&c.* And let the date of the regiſtration be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of that where, upon the day of laſt bypaſt, C. D. of was orderly denounced rebel and put to the horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not implementing and fulfilling to him of a decreet arbitral, given and pronounced by M. J. B. of and M. W. M. of as judges arbitrators, and amicable compoſitors, elected, nominate and choſen by the ſaid complainer; and the ſaid C. D. for compoſing the debates, controverſies and differences amongſt them, and that upon the day of 17 years, preceding upon a ſubmiſſion made and ſubſcribed by them in the matter, upon the day of preceding; and to the which arbitrators, or in caſe of variance between them, to the overſman to have been appointed by them they gave power to decide therein, and obliged themſelves, their heirs and executors, to adhere to their determination, and fulfil the ſame but any appellation, under the penalty after ſpecified, attour performance: And by the which decreet arbitral, the ſaid judges arbitrators, decerned the ſaid C. D. to make payment to the ſaid complainer;

plainer; (here inſert all payable, or otherways preſtable by the decreet arbitral to the complainer, and the cauſes for which, as they are contained in the ſaid decreet and horning) and then ſay, and for not-payment making to the ſaid complainer, of the ſum of Scots money of penalty, contained in the ſaid ſubmiſſion and decreet arbitral following thereupon, becauſe of not-performance; and which ſubmiſſion and decreet arbitral, are regiſtrate in the books of Council and Seſſion, the day of laſt bypaſt, as the ſaid letters of horning and executions thereof, duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion have teſtified: under the proceſs of the which horn, the ſaid C. D. rebel foreſaid, has continually lien and abidden ſinſyne, and yet daily and continually haunts, frequents, reſorts, and openly repairs to kirks, markets; after this follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

HORNING *upon that Clauſe in a Contract of Wadſet, whereby the Heritor is obliged, in caſe of not punctual Payment, at the Term therein prefixed, of the principal Sum whereupon the Lands were hypothecate and redeemable, to renounce the Reverſion, and all Power of Redemption by Virtue thereof.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas by contract of wadſet, made and paſt between C. D. of heritable proprietor of the lands and others after-ſpecified; and having right to the parſonage, teinds thereof after mentioned in manner after expreſſed: and M. J. B. of on the one and other parts, of the date the day of years, the ſaid C. D. for the ſum of uſual money of this realm, then borrowed and received by him, from the ſaid M. J. B. in manner therein rehearſed, ſold, annalzied, wadſet, and diſponed to the ſaid M. J. B. his heirs and aſſignees whatſomever, heritably, all and haill his lands of lying within the pariſh of and ſheriffdom of and bound and obliged him, his heirs and ſucceſſors, to infeft and ſeize the ſaid M. J. B. and his foreſaids, heritably therein by double infeftments, to be holden, and with abſolute warrandice in manner ſpecified in the ſaid contract; whereby the ſaid C. D. alſo aſſigned, transferred and diſponed in favour of the ſaid M. J. B. and his foreſaids, the haill writs and evidents of the ſaid lands and others foreſaid, together with the haill tacks, prorogations, valuations, and other rights granted to him and his predeceſſors, cedents and authors of the teind ſheaves and parſonage teinds of the ſame lands, and others above wadſet, with the pertinents, and conſtitute the ſaid M. J. B. and his foreſaids, his aſſignees, to the mails, duties, and caſualities of the ſaid lands and others aforeſaid, of the crop

crop and year of God years, and yearly thereafter in all time coming, during the not-redemption of the ſaid lands, teinds and others foreſaid: and in like manner, the ſaid C. D. bound and obliged him and his foreſaids, to redeem, looſe, and outquite the ſaid lands, teinds, and others above wadſet, with the pertinents, from the ſaid M. J. B. and his foreſaids, by real and punctual payment making to them of the ſaid ſum of money foreſaid, for which the ſame were hypothecate as ſaid is, and that in real, numerate and down-told gold and money, having paſſage and courſe of payment within this our realm for the time, and all copper, baſe and lay-money excepted and ſecluded, and that upon the term of even 17 and years, together with a term's annualrent thereof; and to make premonition to the ſaid M. J. B. and his foreſaids for that effect, forty days of before perſonally, or at their dwelling-places for the time, in preſence of a notary and witneſſes as effeirs: and the place of payment to be within between the hours of and in the forenoon; and in caſe of their abſence or wilfull refuſal, the ſame to be conſigned in the hands of to be forthcoming to the ſaid M. J. B. and his foreſaids, upon the peril of the conſigner: And which ſum and term's annualrent aforeſaid being ſo paid, or in caſe of abſence or wilful refuſal as ſaid is, truly and really conſigned in manner foreſaid; then and in that caſe by the ſaid contract, it is expreſsly provided and declared, that the ſaid lands, teinds and others foreſaid, ſhould be holden and repute as lawfully redeemed in all time thereafter: and the ſaid wadſet, right and infeftments following thereupon, extinct, void and null, as if the ſame had never been granted. But on the other part by the ſaid contract, it is not only expreſsly provided and declared, that in caſe the ſaid C. D. or his foreſaids, did not punctually pay the ſaid ſum of money foreſaid, with the ſaid term's annualrent, at the ſaid term of even, to which premonition was appointed to be uſed as ſaid is, and thereby lawfully redeem, looſe and outquite the ſaid lands, teinds and others foreſaid, from the ſaid M. J. B. and his above-written; that then and in that caſe, the ſaid reverſion, and all power of redemption by virtue thereof, ſhould not only from thenceforth expire and become extinct, void and null in themſelves; and as if no ſuch reverſion or power of redemption had never been made, granted or provided, and for ever thereafter become irredeemable: But alſo the ſaid C. D. bound and obliged him and his foreſaids, to overgive, diſcharge and renounce the ſaid reverſion and all power of redemption by virtue thereof, in favour of the ſaid M. J. B. and his foreſaids, to the effect the ſame lands, teinds and other above-written, with the pertinents, may remain, continue and abide with the ſaid M. J. B. and his foreſaids, as their own proper lands, heritage and teinds, heritably and irredeemably thereafter, in all time coming, but any manner of reverſion, redemption or regreſs, bond, promiſe, or condition of reverſion whatſomever; and as if the ſame had *ab initio* been irredeemably diſponed: and to pay to the ſaid M. J. B. and his foreſaids, the ſum of money above-written, in name of liquidate penalty, in caſe of failzie in granting of the ſaid renunciation, and that by and attour performance thereof, and together therewith, as the ſaid contract of the date foreſaid, inſert and regiſtrate in the books

books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon, in manner under-written at more length proports. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling-place, to overgive, diſcharge and renounce the foreſaid reverſion, and all power of redemption of the ſaid lands, teinds and others foreſaid, by virtue thereof, to and in favour of the ſaid M. J. B. and his foreſaids: to the effect the ſame may continue, remain and abide with them as their own proper lands, heritage and teinds, heritably and irredeemably in all time coming, in manner above expreſſed: And alſo to make payment to him of the ſaid ſum of money foreſaid, incurred by him of penalty through his not renouncing as ſaid is, in reſpect the ſame were not lawfully redeemed by the ſaid C. D. at the ſaid term of even laſt bypaſt, conform to, and in the terms of the ſaid reverſion, proviſion and condition therein contained, in manner above rehearſed, after the form and tenor of the ſaid contract, and expreſs condition, proviſion and declaration therein contained in all points, within days, to be ruled according to the clauſe of regiſtration in the contract, next after the charge, under the pain of rebellion, and putting of him to our horn; (after this follow forth the ſtile of an ordinary horning, without poinding, and then ſay) according to juſtice as ye will anſwer, *&c. &c.* And let the date of the regiſtration of the contract be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

Nota, I was ever of the opinion, that *in re tam ardua*, as the loſs of a reverſion, inſtruments ſhould be taken upon the failzier before horning were raiſed, and raiſed by way of bill, and the inſtrument therewith produced.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by M. J. B. of that where, upon the day of laſt bypaſt, C. D. of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him at the inſtance of the ſaid complainer, for not overgiving, diſcharging and renouncing in favour of the ſaid complainer, his heirs and aſſignees, the reverſion of the lands of (here inſert the lands as in the narrative of the horning) and then ſay, lying within the pariſh of and ſheriffdom of with the parſonage-teinds thereof, wadſet diſponed and aſſigned by the ſaid C. D. to them, for the ſum of Scots money, and all power of redemption competent to the ſaid C. D. his heirs and aſſignees by virtue thereof, to the effect the ſame may continue, remain and abide with the ſaid complainer and his foreſaids, as their own proper lands, heritage and teinds,

teinds, heritably and irredeemably in all time coming, but any manner of reverſion, redemption, regreſs, bond, promiſe, or condition of reverſion whatſomever; and as if there had been no reverſion provided by the contract after ſpecified; but that the ſaid lands, teinds and others foreſaid, had *ab initio*, been irredeemably diſponed by the ſaid C. D. to the ſaid complainer and his foreſaids, and that in reſpect the ſaid C. D. did not lawfully redeem, looſe and outquite the ſame from the ſaid complainer and his above-written, at the term of even laſt bypaſt, by payment of the ſaid ſum of and that term's annualrent to which premonition ſhould have been uſed, upon lawful premonition of forty days of before, to be made by the ſaid C. D. to the ſaid complainer and his foreſaids to that effect, conform to the obligation and condition of reverſion, ſpecified in the contract of wadſet after mentioned; and in like manner, for not-payment making to the ſaid complainer, of the ſum of money above-written, of penalty therein contained, incurred by the ſaid C. D. through not overgiving, diſcharging and renouncing the ſaid reverſion, and all power of redemption as ſaid is, in manner above rehearſed; and that conform to the contract of wadſet, paſſed between the ſaid C. D. and the ſaid complainer on the one and other parts, of the date the day of years, regiſtrate in the books of Council and Seſſion the day of laſt bypaſt, (6) as the ſaid letters of horning with the executions thereof, duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified. Under the proceſs of the which horn, the ſaid C. D. rebel foreſaid, has continually lien and abidden ſinſyne, and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets: After this follow forth the ſtile of a caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, If inſtruments were taken, inſert the ſame accurately at the figure of (6) thus, and inſtruments taken upon the ſaid not-redemption in the hands of notary public, the day of laſt.

SUSPENSION *of the ſaid Charge, containing Relaxation.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by C. D. of that where M. J. B. of has upon his pretended manner raiſed other letters, and therewith cauſed charge the ſaid complainer, to overgive, diſcharge and renounce in favour of the ſaid M. J. B. his heirs and aſſignees, the reverſion of the lands of (here inſert the lands as in the narrative of the horning, and then ſay) lying within the pariſh of and ſheriffdom of with the parſonage-teinds thereof, wadſet diſponed and aſſigned by the ſaid complainer to them, for the ſum of Scots money, by virtue of the contract after ſpecified; and all power of redemption competent to him, his heirs and aſſignees

nees by virtue thereof, to the effect the ſame may continue, remain and abide with the ſaid charger and his foreſaids, as their own proper lands, heritage and teinds, heritably and irredeemably in all time coming, but any manner of reverſion, redemption, regreſs, bond, promiſe or condition of reverſion whatſomever; and as if there had been no reverſion provided by the ſaid contract, but that the ſaid lands, teinds and others foreſaid, had *ab initio* been irredeemably diſponed by the ſaid complainer to the ſaid charger and his foreſaids; and that in reſpect the ſaid complainer did not lawfully redeem, looſe and outquite the ſame from the ſaid charger and his above-written, at the term of even laſt bypaſt, by payment of the ſaid ſum of money foreſaid, for which the ſaid lands and tithes were wadſet, and that term's annualrent to which premonition ſhould have been uſed, upon lawful premonition of forty days of before, to have been made by the ſaid complainer to the ſaid charger and his foreſaids for that effect, conform to the obligation and condition of reverſion ſpecified in the contract of wadſet after mentioned: And, in like manner, to make payment to the ſaid charger of the ſum of money above-written of penalty therein contained, alledged, incurred by the ſaid complainer through not overgiving, diſcharging and renouncing the ſaid reverſion, and all power of redemption as ſaid is in manner above rehearſed, and that conform to the contract of wadſet, paſſed between the ſaid complainer and the ſaid charger on the one and other parts, of the date the day of years, regiſtrate in the books of Council and Seſſion the day of laſt bypaſt, within a certain ſhort ſpace next after the charge, under the pain of rebellion, and putting of the ſaid complainer to the horn; and for alledged diſobedience, has denounced him thereto moſt wrongouſly and unjuſtly. Conſidering it is of verity, that albeit the complainer, in his great neceſſity, was obliged and forced to grant the ſaid wadſet in the terms above ſpecified; yet the ſame was a moſt uſurious paction, and contrary to all law, which allow only of pactions that are rational and adequate. But ſo it is, that the ſaid ſum of for which the ſaid wadſet was granted, and the ſaid lands and teinds were impignorate and hypothecate, was far within the intrinſic value thereof: it being notourly known, that the ſame between man and man being victual of wheat, bear and oat-meal, attour cuſtoms, ariages and carriages, is worth in true eſtimation, (and as the like rent uſually ſells in that country) the ſum of attour the houſe, yards, planting and other accommodations, to the value of money foreſaid; and ſo in both, exceeds the ſaid ſum due upon the wadſet, in the ſum of and nothing of the ſame to be deduced but of feu-duty payable to the ſuperior, and payable to the miniſter of the pariſh yearly, which the benefit of the woods will more as pay yearly; yea, were the woods inſtantly ſold, the value thereof would, at leaſt amount to the ſum of ſo that it were hard upon ſuch an irritant clauſe, to which he was obliged in his great neceſſity in manner foreſaid, to take away and cut off ſo much of the complainer's fortune and eſtate for ſo little money; and all ſuch irritancies always admit of declarators, before our Lords of Council and Seſſion, wherein heritors being called, they are not only heard againſt the ſame upon the former and like grounds, and upon the means and methods taken for at-

taining ſuch uſurious and unjuſtifiable wadſets, attended with ſuch great diſadvantages; but even the ſaid Lords *ex jure et ex nobili officio*, repone perſons, ſo injured and impoſed upon, againſt the ſame, upon payment or conſignation at the bar, of the ſum for which ſuch wadſets were granted, and any neceſſary expences the wadſetter might have been at; and which is pure and material juſtice, wherein the wadſetter has no loſs. And the truth is, albeit the complainer could not afford the money the very preciſe term's even, ſo as to anſwer payment or conſignation to the charger, yet he provided the money within days thereafter, and offered the ſame to the charger, *cum intereſſe de die in diem*, but was refuſed; ſo inexorable and implacable was the charger, and upon no other ground, but the great advantages he propoſed to himſelf, in retaining the land upon ſo eaſy terms; nor would he pay to the complainer, the intrinſic value thereof aforeſaid, with deduction of his own money. And as for the ſaid penalty, the clauſe and obligement to which adjected, being illegal and uſurious, the ſame muſt fall in conſequence; and all upon the matter, falls under the ſaid Lords their conſideration, either *de jure* or *ex nobili officio*. And the complainer is yet content to pay and perform at the ſaid Lords their ſight, and which is all that in juſtice can be expected; eſpecially ſeeing the complainer as heritor, paid all public burdens ever ſince the wadſet; and if the charger had his intereſt free, and a third or fourth part more, where lies his damage? And albeit it is acknowledged, the charger might have cut as much of the woods growing upon the wadſet lands, as conveniently might have kept the houſes and buildings thereon heritable, and in good condition. *Quo jure* did he cut, ſell and diſpoſe upon a great part of the wood during the years of the redemption; and in effect, as it was an act illegal and unwarrantable, ſo the effects of all cut and vended, muſt and ſhould in law, be deducted and allowed in the very ſums due upon the ſaid wadſet; and ſo our ſaid Lords of Council and Seſſion, may evidently perceive how wrongouſly and unjuſtly the ſaid complainer is charged, in manner, and to the effect aforeſaid, by all law, equity and reaſon. Nevertheleſs for obedience, the ſaid complainer has found caution, acted in our books of Council and Seſſion, for giving obedience to the ſaid charge, in caſe it be found by our ſaid Lords of Council and Seſſion, after the diſcuſſing hereof, that he ought to do the ſame. And alſo for payment to the Lords of our treaſury of the ſum of twenty merks money foreſaid, for his eſcheat goods, in caſe it be found by the ſaid Lords that he is orderly denounced rebel, and put to the horn for the cauſe aforeſaid; and therefore the foreſaid letters and charge, haill effect and execution thereof, and proceſs of horning, poinding, caption, and others therein contained, ought and ſhould be *ſimpliciter* ſuſpended upon the ſaid complainer, in time coming, for the reaſons and cauſes foreſaid, and others, *&c.* as is alledged. Our will is heretore, and we charge you, that ye lawfully ſummons, warn and charge the ſaid M. J. B. charger, perſonally, or at his dwelling-place, to compear before our ſaid Lords of Council and Seſſion at Edinburgh, or where it ſhall happen them to be for the time, the day of which is to be determined by the day of compearance on the back of the bill, and then ſay, in the hour of cauſe, with continuation of days, bringing with him the foreſaid

foresaid registrate contract of wadset, letters of horning, caption, and others raised thereupon, with the executions thereof, to be seen and considered by the said Lords, and to hear and see the same, and process of horning, and others therein contained *simpliciter* suspended upon the said complainer in time coming, for the reasons and causes foresaid, and others, *&c.* attour, we and our said Lords of Council and Session, in our name, hereby suspend the foresaid letters and charge, haill effect and execution thereof, and process of horning, caption, and others therein contained upon the said complainer; discharging hereby all officers and messengers at arms, of all putting of the same to further execution against him in time coming, and of their offices in that part in the mean time, till the day of to be ruled by the bill, that the verity be known, and if the said complainer be already denounced rebel, and put to our horn for the cause aforesaid, that ye messengers at arms pass to the market-cross of and there in our name and authority relax him therefrom, receive him to our peace again, and deliver to him, or any other in his name, the wand thereof, and that ye cause registrate the said suspension and relaxation within fifteen days next after he be relaxed, conform to the act of parliament, according to justice, because is become caution for the complainer, to the effect above specified, and for payment to the Lords of our treasury of twenty merks, for his escheat-goods, as ye will answer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Sometimes the Lords pass upon caution, and at other times, as they find cause, they pass only upon consignation of the renunciation charged for, and finding caution for the penalty and escheat-goods, but all is one upon the event, and in this last case the suspension in place of these words, that the complainer has found caution for obedience to the charge, ye must say, has consigned the foresaid renunciation in the clerk of the bills hands, to be given up to the charger, in case after discussing it be found, that the same ought to be done, and found caution for payment of the said penalty, in case, as in the subsumption, and twenty merks *ut supra*, and next in the said last case, after according to justice, take in the because as upon the back of the bill; but in case the Lords should appoint consignation of the renunciation, these difficulties occur. 1. If not registrate within sixty days, it is to no purpose, the act of parliament being positive as to the registration of such. 2. If registrate, then it may be pretended by the charger, that it is evident, and if in the discussing, the Lords find the wadset usurious, and ordain the charger to take his money, or less, as they find just *in eventu*, what becomes of the registrate paper, and how shall it be taken away, and no doubt the Lords would rather incline to caution.

LETTERS *of Lawburrows.*

GEORGE, *&c.* to *&c.* messengers *&c.* meaned and complained to us by C. D. of upon M. J. B. of J. B. C. D. W. B. and L. B. his sons, and W. R. W. S. W. C. W. M. *&c.* his tenants, that where the foresaid named

named perſons having conceived a deadly hatred, evil-will and malice, cauſeleſs againſt the ſaid complainer, upon what occaſion he knows not, they by themſelves, their wives, bairns, men-tenants, ſervants, cotters and dependers, and others in their names, of their cauſing, ſending, hounding out, command, reſet, aſſiſtance and ratihabition, daily and continually moleſt, trouble and oppreſs the ſaid complainer, his wife, bairns, men-tenants, ſervants, cotters and dependers in the peaceable poſſeſſion of their lands, heritages, graſs, paſturages, rooms, poſſeſſions, goods and gear, by eating, tramping down, and deſtroying of their corns and graſs with their beſtial and cattle, hounding of the complainer's cattle and goods from off their own property and commonty, making common roads, paſſages, and high-ways therethrough where never any were wont to be of before, making and caſting of ſtanks within their ſaid property and commonty, and incloſing ſome parts and portions thereof, thinking thereby in proceſs of time, to appropriate the ſame to themſelves as property, and to debar and ſeclude the ſaid complainer and his foreſaids therefrom in all time coming, and not ſatisfied therewith, they by themſelves and their foreſaids, of their cauſing and command as ſaid is, threaten and menace the ſaid complainer and his foreſaids for their bodily harm and ſlaughter, to bereave them of their lives, and lie in wait for that effect, and otherways moleſt, trouble and oppreſs the ſaid complainer and his foreſaids, by all order of law and juſtice, committing thereby manifeſt and open bangaſtry and oppreſſion, in high contempt of us, our authority and laws, and in evil example of others to commit the like in time coming, without remeid be provided thereto, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, take the ſaid complainer his oath, that he dreads bodily harm, injury or oppreſſion, of the forenamed perſons above complained upon, and his oath being ſo taken, that ye in our name and authority alſo command and charge the forenamed perſons above complained upon, perſonally, if they can be apprehended, and failing thereof, at their dwelling-places, and by open proclamation at the market-croſs of the ſhire, regality, or other juriſdiction within the which they reſide, to come and find ſufficient caution, ſoverty, and lawburrows acted in our books of Council and Seſſion, that the ſaid complainer, his wife, bairns, men-tenants, ſervants, cotters and dependers, ſhall be harmleſs and ſkaithleſs (6) in their bodies, lands, heritages, roums, poſſeſſions, goods and gear; and that they ſhall in no ways be troubled or moleſted therein by the forenamed perſons, above complained upon, their wives, bairns, men-tenants, ſervants, cotters and dependers, or others in their names, of their cauſing, ſending, hounding out, command, reſet, aſſiſtance or ratihabition, or others whom they may ſtop or let, directly or indirectly, in any ſort, from the day and date of the charge, to be given to them for that effect, or in time coming, otherways than by order of law and juſtice, each landed perſon above complained upon, under the pain of one thouſand merks, and each unlanded perſon under the pain of four hundred merks Scots money (7) and that they find caution, acted in manner foreſaid, within ſix days next after they be charged by you thereto, under the pain of rebellion (here follow forth the

ſtile

ſtile of an ordinary horning, without poinding) and then ſay, according to juſtice, conform to the act of parliament, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Lawburrows ſhould be on no fewer days than fifteen, againſt all benorth Tay, and on (6) beſouth the ſame; and albeit in the narrative there may be a ſpeciality, yet the concluſion *ut ſupra* by act of parliament.

CAPTION *upon the ſaid Lawburrows.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by C. D. of that where, upon the day of M. J. B. of J. B. C. D. W. B. and L. B. his ſons, W. R. W. S. W. C. W. M. *&c.* his tenants, were orderly denounced rebels, and put to the horn, by virtue of letters of horning and lawburrows, raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not coming and finding ſufficient caution, ſoverty and lawburrows, acted in our books of Council and Seſſion, that the ſaid complainer, his wife, bairns, men-tenants, ſervants, cotters and dependers, ſhall be harmleſs and ſkaithleſs in their bodies, lands, heritages, rooms, poſſeſſions, goods and gear; and that they ſhall no ways be troubled or moleſted therein by the forenamed perſons, their wives, bairns, men-tenants, ſervants, cotters and dependers, or others in their names, of their cauſing, ſending, hounding out, command, reſet, aſſiſtance or ratihabition, or others whom they may ſtop or let, directly or indirectly, in any ſort, from the day and date of the charge given to them for that effect, being the day of (fill up this date with the date of the lawburrows) nor thereafter in time coming, otherways nor by the order of law and juſtice, each landed perſon above ſpecified, under the pain of one thouſand merks, and each unlanded perſon, under the pain of four hundred merks, conform to the letters of lawburrows, raiſed at the inſtance of the ſaid complainer againſt them thereanent, dated the day of as the ſame, with the executions thereof duly regiſtrate, conform to the act of parliament, ſhown to our Lords of Council and Seſſion, have teſtified; under the proceſs of the which horn, the forenamed perſons rebels foreſaid, have continually lien and abidden ſinſyne, and yet daily haunt, frequent, reſort, and openly repair to kirks, markets, *&c.* (After this follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, When perſons are charged to find caution in lawburrows, ſome give in a bond of cautionry to the bill chamber, within the days of the charge, and do not ſuſpend, but ſummarily

ſummarily take out an act of caution under the clerk of the bills hands, the import whereof is, that ſuch perſons ſuch a day, have found caution conform to the charge of lawburrows given them, to the effect, and under the pains therein ſpecified: But in this act, the clerk neither can, nor will allow of any proteſtation for mitigation of the pains, conform to the act of parliament, in caſe of contravention, but gives out the act in the preciſe terms of the charge, and according to the bond, which muſt be *in terminis* with that of the charge; and others again finding the pains great, and beyond thoſe appointed by law, they will not take out an act of caution ſummarily, but they ſuſpend, and therein find caution under the penalties contained in the charge, in obedience, and yet proteſt for mitigation, according to the acts of parliament in caſe of contravention: The ſtile of which ſuſpenſion follows.

SUSPENSION *of Lawburrows, containing Relaxation, which may be inſert or omitted as ye find cauſe.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by M. J. B. of J. B. C. D. W. B. and L. B. his ſons, and W. R. W. S. W. C. W. M. *&c.* his tenants; that where C. D. of has upon his pretended manner, raiſed letters of lawburrows, and therewith cauſed charge the ſaid complainers to come and find ſufficient caution, ſoverty and lawburrows, acted in our books of Council and Seſſion, that the ſaid complainer, his wife, bairns, men-tenants, ſervants, cotters and dependers, ſhall be harmleſs and ſkaithleſs, (here take in from the 6 figure to the 7 in the will of the lawburrows, and then ſay) within a certain ſhort ſpace next after the charge, under the pain of rebellion, and putting of the ſaid complainers to our horn, and for alledged diſobedience has denounced, at leaſt intends to cauſe denounce them rebels, and put them to the horn moſt wrongouſly and unjuſtly: Conſidering it is of veriry, that the ſaid complainers were never troubleſome or offenſive to the charger or his foreſaids in the leaſt, nor never gave them any juſt cauſe to raiſe, or execute any ſuch letters, having always lived in good friendſhip and neighbourhood with them; but, on the contrary, the ſaid charger by himſelf, his wife, children, men-tenants and ſervants, have given many grounds of complaint to the complainers and their foreſaids. Secondly, Even by the very letters themſelves, the meſſenger is commanded and ordained by us *primo loco*, to take the charger's oath, that he dreads bodily harm, injury or oppreſſion of the complainers, and that being taken, and in this next place only, to charge the complainers to the effect foreſaid, and under the pains above mentioned, and yet notwithſtanding, and moſt unwarrantably, and without taking the charger's oath as ſaid is, the meſſenger has charged the complainers to come, and find ſufficient caution, ſoverty and lawburrows, in manner, and to the effect, and under the pains above expreſſed. Thirdly, By the hundred and ſixty ſix act of the 13 parliament of King James VI. of ever bleſſed memory, held at Edinburgh the 21ſt July 1593, intituled Additions to the pains of Lawburrows, it is ſtatute and ordained by his majeſty, and the three eſtates, that thereafter in time coming, the pains and unlaws in lawburrows

burrows ſhould be as follows, for every Earl or Lord 2000 pounds, for every great baron 1000 pounds, for every freeholder 1000 merks, for every ſeuer 500 merks, for every yeoman 100 merks, for every gentleman unlanded 200 merks; and true it is, that the ſaid M. J. B. is but a feuer, and ſo ſhould only have been charged under the pain of 500 merks, and his ſaid ſons being but gentlemen unlanded 200 merks, and each of his ſaid tenants being but yeomen 100 merks, and yet notwithſtanding all of them charged under far greater pains, contrary to the ſaid act of parliament, and ſo ought to be mitigate and reſtricted to, and in the terms of the ſaid act, and ſo our Lords of Council and Seſſion may evidently perceive how wrongouſly and unjuſtly the ſaid complainers are charged, in manner, to the effect, and under the pains aforeſaid, by all law, equity and reaſon; nevertheleſs for obedience, the ſaid complainers have inſtantly found ſufficient caution, ſoverty and lawburrows, acted in our books of Council and Seſſion, to the effect above ſpecified, and under the pains above mentioned, contained in the ſaid charge, but prejudice always to them of the mitigation thereof, conform to the ſaid act of parliament in caſe of contravention, and alſo have found caution, acted in manner foreſaid for payment to the Lords of our treaſury of 20 merks, for each of their eſcheat-goods, in caſe it be found by the ſaid Lords that they are orderly denounced rebels, and put to the horn, for the cauſe foreſaid; and therefore the foreſaid letters of lawburrows, haill effect and execution thereof, and proceſs of horning, and others therein contained, ought and ſhould be *ſimpliciter* ſuſpended upon the ſaid complainers, and they relaxed from the horn for the reaſons and cauſes foreſaid, and others as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn and charge the ſaid C. D. charger, perſonally, or at his dwelling-place, to compear before our ſaid Lords at Edinburgh, or where it ſhall happen them to be for the time, the day of (to be filled up according to the deliverance of the bill, and then ſay) if it be lawful, and failing thereof, the next lawful day thereafter following, in the hour of cauſe, with continuation of days, bringing with them the foreſaid letters of lawburrows, with the executions thereof, and caption raiſed thereupon, to be ſeen and conſidered by the ſaid Lords (After this follow forth the ſtile of an ordinary ſuſpenſion, containing relaxation, paſſed upon caution *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Albeit ye take in the words of the charge in the ſuſpenſion, according to the reference from the (6) to the (7) figure, yet, in the ſuſpenſion, in place of the date of the charge to be given there, ſay here given.

Nota, This ſuſpenſion is never diſcuſſed (*via ſuſpenſionis*) as other ſuſpenſions are, but in caſe of contravention, it is purſued by way of action, and which ye will fiud amongſt the ſummonſes, (being the third part of the work, called ſummons of contravention) wherein not only the party grieved is purſuer, but alſo the king's advocate for his majeſty's intereſt, becauſe the pains or penaltics goes by halfs, whereof the one to the King and the other to the party, beſides the 20 merks for eſcheat goods; to which the king has only right.

LETTERS

LETTERS *of Arreſtment upon a depending Action.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of that where the ſaid complainer has raiſed ſummons and intended action at his inſtance, before our Lords of Council and Seſſion againſt C. D. of touching the decerning of him by the ſaid Lords their decreet, to make payment to the ſaid complainer, of the ſums of money, and others after ſpecified, addebted by him to the ſaid complainer, for the cauſes after mentioned, or of the avails, eſtimations and prices under-written, *viz.* (here inſert all the ſums and goods as they are libelled, and if any of them bear annualrent by bond, ticket, or regiſtrate horning, which by act of parliament is equivalent, inſert the ſame alſo and then ſay) as the ſaid ſummons duly execute, ſhown to our ſaid Lords of Council and Seſſion have teſtified, and the ſaid C. D. knowing perfectly, that he will ſuccumb in the ſaid action, and that the ſaid complainer will prevail, and obtain decreet condemnator againſt him therein, he, in manifeſt defraud, hurt and prejudice of the ſaid complainer thereanent, intends, as the ſaid complainer is informed, to ſell, diſpone, aſſign, intromit with, uplift, diſapidate, put away and diſcharge, all and ſundry goods, gear, corns, cattle, horſe, nolt, ſheep, debts, ſums of money, inſight, pleniſhing, mails, farms, profits and duties of lands, and all other moveable goods and gear whatſomever, pertaining and belonging to him, without remeid be provided thereto, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, fence and arreſt, all and ſundry goods, gear, corns, cattle, horſe, nolt, ſheep, debts, ſums of money, inſight, pleniſhing, mails, farms, profits and duties of lands, and all other moveable goods and gear whatſoever, pertaining and belonging to the ſaid C. D. wherever, or in whoſe hands the ſame may or can be apprehended, to remain in their hands, under ſure fence and arreſtment, ay and while ſufficient caution and ſoverty be found, acted in our books of Council and Seſſion, that the ſame ſhall be made forthcoming to the ſaid complainer, as accords of the law, according to juſtice, becauſe the Lords have ſeen the dependence above-written, as ye will anſwer to us thereupon, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, When the ſums or intereſt purſued for, is conſiderable, the purſuer raiſes inhibition upon the dependence, and concludes with an arreſtment, ay and while caution be found *ut ſupra*, in the end thereof.

LETTERS

LETTERS *of Cognition of Marches founded upon the Act of Parliament, and directed to Charge the Sheriff of the Shire and his Deputies to take the ſaid Cognition.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of that where the ſaid complainer ſtands heritably infeft and ſeized in all and haill the lands, as they are in the ſeiſin, and then ſay, with houſes, biggings, yards, orchards, moſſes, muirs, marſhes, meadows, graſs and paſturages, outſets, inſets, annexes, connexes, dependencies, parts, pendicles, and univerſal pertinents thereof, lying within the pariſh of and ſheriffdom of as the inſtrument of ſeiſin granted to him thereupon, duly regiſtrate conform to the act of parliament, ſhown to our Lords of Council and Seſſion has teſtified, by virtue whereof, and his predeceſſors and authors, by virtue of their rights and infeftments, and their tenants have been in the actual, real and peaceable poſſeſſion thereof, by dwelling thereupon, occupying, labouring and manuring of the arable lands thereof, and doing all other acts and deeds of property within the haill bounds, meithes and marches of the ſame after ſpecified, *viz.* (here inſert the particular bounds of the property) and by debarring all other perſons from incroaching thereupon, or doing any act of property or commonty within the ſame; and in like manner have been in the actual, real and peaceable poſſeſſion of the haill bounds after mentioned, *viz.* (here inſert the bounds of the commonty, and then ſay) and that by paſturing and herding of their cattle, beſtial, and goods thereupon, caſting, winning, leading, and away taking, fuel, foggage, earth, ſtone and divot, heather and broom forth thereof, and by doing all other deeds of commonty of the law requiſite within the ſaid bounds, and all, as well as to the ſaid property as to the ſaid commonty, paſt all memory of man, but any ſtop, trouble or impediment on the contrary, till in the month of laſt bypaſt, and one or other of the days thereof, C. D. of accompanied with (here fill up the perſons, and then ſay) by themſelves, their ſervants, complices, and others in their names, of their cauſing and command, came within the bounds of the ſaid complainer his property aforeſaid, and there moſt maſterfully incloſed ſeveral parts, and ditched other parts thereof, and did caſt fuel, foggage, ſeal and divot, and win lime-ſtones in other parts of the ſame, and paſtured and herded their horſe, beſtial and goods upon ſome other parts and portions thereof, and likeways incloſed ſeveral parts and portions of the ſaid commonty, and have brought the ſame to the perfection of arable land, and built ſome houſes and ſheelings upon other parts thereof, and hindered and impeded the ſaid complainer and his tenants, from caſting, winning, leading, and away taking fuel, foggage, ſtone and divot forth of the ſaid commonty, and from paſturing and herding their goods within ſeveral parts and portions thereof, and by ditching, ſtanking, and doing ſeveral other acts of moleſtation againſt the ſaid complainer, and his ſaid tenants, thinking thereby, as would appear, and in proceſs of time, not only to

inhance the whole commonty, or moſt part thereof to himſelf, his heirs and ſucceſſors in property, but alſo (even) to inhance and put himſelf in poſſeſſion of the ſaid complainer his undoubted and uncontroverted property aforeſaid, whereof he and his ſaid predeceſſors and authors, and their tenants, have been in immemorial poſſeſſion, in manner, and by doing the ſeveral deeds of property and commonty *reſpective* as above expreſſed; likeas, by the forty-two act of the eleventh parliament of our royal grandfather King James VI. of ever bleſſed memory, held at Edinburgh the 29th July 1587 years, intituled, Actions of Moleſtations, and others poſſeſſors, ſhould be decided before the inferior judges, his majeſty, and the three eſtates convened in the ſaid parliament, ratified, approved, and for his highneſs, and his ſucceſſors perpetually confirmed the act of the Lords of Council and Seſſion, made anent proceeding in cauſes of moleſtation, and ordained the ſame to take full effect, and execution thereafter in time coming, as a moſt neceſſary and profitable law to all his highneſs's ſubjects, and the ſaid haill act to be inſert in the books of parliament: Of the which act the tenor follows. At Edinburgh the day of the year of God 1580 years; foraſmuchas, the multiplicity of actions before the Lords of Seſſion, impeach greatly the ordinary courſe of juſtice, in weighty cauſes of heritage, and other matters of great importance, which are moſt proper to be decided by the ſaid Lords of Seſſion, (here take in the narrative of the act, till ye come to theſe words for the which cauſes, and then ſay,) for the which cauſes, the ſaid Lords of Seſſion has thought meit and expedient, ſtatutes and ordains, that all matters of moleſtation and troublance in properties and commonties, conſiſting in the poſſeſſor, to be intented hereafter, or already intented, wherein no *litis-conteſtation* is made, ſhall be remitted to the ſheriff of the ſhire, bailies of regalities, and others inferior ordinary judges where the lands, upon the which queſtion ſhall be moved, lies; and to that effect, whenſoever the ſaid parties ſhall mean them to the ſaid Lords, upon troublance or moleſtation, committed upon properties and commonty, the Lords, by their deliverance, ſhall direct letters, ordaining the ſaid inferior judges ordinary, to take cognition therein upon ſummons or precepts, to be direct upon fifteen days warning, and the courts following to be continued from eight days to eight days at the longeſt or ſhorter, as the cauſe ſhall require, at the diſcretion of the judge; which cognition ſhall be taken by this order. Firſt, That the parties defences ſhall be lawfully diſcuſſed in the place where the ſaid inferior judges ordinary uſe to ſit, or that ſhall be appointed unto them by the ſaid Lords of Council, and if the defences be all repelled, that the ſaid judges, after the production of the parties rights, conſiſting in writ, ſhall put the haill other points of the ſummons or exception, which ſhall be admitted, ſo much thereof as by the order obſerved before, might or ſhould have been proven by witneſſes, to the knowledge of a condign inqueſt, to be elected and choſen of perſons leaſt ſuſpected, and that beſt knows the verity, to a ſufficient number, the moſt part whereof ſhall be landed men, having at the leaſt four ploughs of land, or three hundred merks of yearly rent unredeemable, and other ſubſtantious and famous honeſt yeomen; which perſons ſhall be taken and choſen in the pariſh where the

ſaid

ſaid lands debateable lies, if a ſufficient number may be found there, and failing thereof, that the neareſt pariſhioners next adjacent, admitted always all objections competent againſt their perſons, as accords of the law, which perſons of inqueſt, after they be lawfully ſworn and admitted, ſhall have power to viſit the ground, if they think it expedient, and take all other trial, as they ſhall think good, upon their oath and conſcience, and ſhall return their anſwer to the judge, upon the truth and verity of the claim or exception admitted, and that in face of judgement, that the ſaid judge ordinary may thereafter give his ſentence *definitive* upon the ſaid debates; and if the ſaid perſons of inqueſt commit error in their ſaid determination, they ſhall be called, accuſed, and puniſhed therefore, *Pœna temere jurantium ſuper aſſiſa*, in their perſons and goods, according to the ancient laws of this realm, and conſuetude obſerved within the ſame, and if it happens mutual purſuit, convention or re-convention on either ſide, to be intended, both the parties doing their due diligence, by intending and purſuing of their actions *hinc inde*, before *litis-conteſtation* made by either of them; and all their reaſons and allegations in the law being produced, before the matter be put to the knowledge of an inqueſt, the judge ſhall proceed in them both *pari paſſu*; and ſhall remit the heads and articles of the claim, precepts, ſummons or exception, which conſiſts *in facto*, and was accuſtomed to be verified by witneſſes, to the determination of an aſſize, which ſhall take cognition in both the cauſes, where they cannot be denied, and by the equal half of the ſaid aſſizes ſhall be taken of the perſons ſummoned for either of the ſaid parties, and if the number of the half of the aſſize may not be had of the number ſummoned, by either of the parties, in that caſe the judge ſhall take ſo many as wants of others ſufficient aſſizers, albeit there be nought ſummoned by neither of the parties, the ſame perſons being always landed men, or being ſubſtantious, famous, and honeſt yeomen, as ſaid is, and the odd man ſhall be choſen by cavel, and where it ſhall happen the ſheriff of the ſhire, baillie of regality, or other inferior judge-ordinary, to be ſuſpected and unable to judge the ſaid cauſes, for deadly feed, and other reaſons, which may decline the judge, or the place of judgement to be incompetent, that therewith the party cannot have ſure acceſs for his purſuit and defence, in that caſe the matter being moved to the ſaid Lords, and found and declared by them, the other party being lawfully ſummoned, they ſhall appoint unſuſpected judges, and a place competent for the ſaid cognition and determination, the way and manner, and in the terms mentioned in the ſaid act, here holden as for expreſſed *brevitatis cauſa*, and further, the ſaid Lords declared, that this act and ordinance on no ways hurt or prejudge the Lords of Seſſion, and college of juſtice, and their members, but that they have and ſhall uſe their privilege to purſue their actions before the ſaid Lords, or others ordinary judges, according to old accuſtomed uſe, uſed and obſerved before the making of this act, as the ſaid act of the Lords and act of parliament aforeſaid, ratifying the ſame in themſelves more fully is contained. And albeit it be of verity, that the ſaid complainer has of late been moleſted, and received great troublance; not only in the peaceable poſſeſſion of his ſaid commonty; but alſo of his ſaid property, whereof he and his predeceſſors and authors,

have been in immemorial poſſeſſion by themſelves and tenants, as property and commonty *reſpective*, by virtue of their ſaid rights and infeftments, and within the haill bounds above expreſſed; and that he has oft and divers times deſired and required the ſaid C. D. and others above named, his accomplices in the ſaid troublance and moleſtation, to deſiſt and ceaſe from doing the ſame or like deeds for the future; and to ſuffer and permit him and his men-tenants and ſervants, peaceably to poſſeſs his ſaid property and commonty as formerly, and without the leaſt incroachment, troublance and moleſtation in time coming: Nevertheleſs, they not only wrongouſly refuſe, poſtpone and defet to do the ſame; but intend, and openly declare and avow, to continue and perſiſt in doing the like for the future; neither will D. R. of ſheriff of the ſaid ſheriffdom of and his deputes, within whoſe juriſdiction the ſaid complainer his property and commonty; and likewiſe the ſaid C. D. his next adjacent heritor and neighbour, and who gives him the ſaid trouble and moleſtation his lands lie, take cognition in the ſaid matter, in obedience to the ſaid act of the Seſſion, and act of parliament aforeſaid, ratifying the ſame, without they be compelled as is alleged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, command and charge the ſaid D. R. of principal, ſheriff of the ſaid ſheriffdom of (within which the ſaid controverted lands and bounds lie) and his deputes perſonally, or at their dwelling-places, to take cognition in the ſaid matter, upon ſummons or precepts, to be direct upon fifteen days warning againſt the ſaid C. D. next adjacent heritor, who, and his accomplices, have made the ſaid novations and innovations, and thereby given troublance to, and moleſts the ſaid complainer and his ſaid men-tenants and ſervants, in their ſaid property and commonty, and peaceable poſſeſſion thereof aforeſaid, to compear before the ſaid ſheriff and his deputes, within their ordinary court-place upon a certain day; and in the hour of cauſe, to anſwer at the inſtance of the ſaid complainer in the ſaid matter; that is to ſay, the ſaid C. D. to hear and ſee juſtice adminiſtrate to the ſaid complainer, in the matter above-written, according to his own and his ſaid predeceſſors and authors their rights and infeftments, and their own and tenants and ſervants their immemorial poſſeſſion, by virtue thereof, and that in the terms of, and method and order preſcribed by the ſaid act of the Lords of Seſſion, and act of parliament aforeſaid ratifying the ſame: and if the ſaid C. D. his defences be all repelled, (after the production of the parties rights conſiſting in writ) to put the haill other points of the ſummons or exception, which ſhall be admitted, ſo much thereof, as by the order obſerved before, might or ſhould have been proven by witneſſes, to the knowledge of a condign inqueſt, and of the quality above mentioned, and within the places in the reſpective caſes above expreſſed; and for that effect, to ſummon the ſaid inqueſt and witneſſes, neceſſary to be adduced in the ſaid matter debateable and controvertable, to paſs thereupon and depone therein, as the ſaid judges ſhall find cauſe, and find relevant; (after the parties are heard, and rights produced, and defences or exceptions proponed and diſcuſſed, and the ſaid inqueſt and witneſſes ſworn conform to law) and to allow the ſaid inqueſt, after being admitted and deponing,

deponing, to viſit the ground if they think expedient; and to take all other trial as they ſhall think good, upon their oath and conſcience; and to return their anſwers to the ſaid ſheriff and his deputes, upon the truth and verity of the claim or exception admitted, and that in face of judgement; and to continue the courts from eight days to eight days at the longeſt, or ſhorter as the cauſe ſhall require, and at the ſaid judges their diſcretion; and to obſerve the ſaid acts in the haill heads thereof; and adminiſtrate juſtice in the ſaid matter accordingly, notwithſtanding of the vacance, if any ſhall be during the dependence of the ſaid matter. Whereanent we, and our Lords of Council and Seſſion, diſpenſe, and admit, and declare their procedure and definitive ſentence, to be pronounced by the ſaid ſheriff and his deputes therein, according to law, to be alſo ſufficient as if done in lawful time of Seſſion; and that ye charge the ſaid ſheriff and his deputes to the effect aforeſaid, within fifteen days next after they be charged thereto, under the pain of rebellion, and putting of them to our horn: with certification to them if they fail, our other letters will be direct charging them thereto *ſimpliciter*, according to juſtice, conform to the ſaid act of the ſaid Lords, and act of parliament, and becauſe the Lords have ſeen the ſeiſin above-written, as ye will anſwer to us thereupon; and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Seeing by the ſaid acts, there is a proviſion and *ſalvo* for the defender, to reclaim and make application to the Lords in caſe of injuſtice of the judge. I think fit, as the proper way, to ſet down the advocation.

ADVOCATION *in the ſaid Matter.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by C. D. of that where, A. B. of having meaned himſelf to our Lords of Council and Seſſion, and pretending that he is moleſted and troubled, not only in his commonty, but alſo in his property of the lands of and others, by the complainer and his accomplices; by the ſeveral deeds and alledged incroachments made by them thereupon, and that in the month of laſt bypaſt, or one or other of the days thereof, has obtained letters of cognition in the matter, direct to meſſengers at arms, charging them to paſs, and in our name and authority, command and charge D. R. of ſheriff principal of the ſheriffdom of within which the complainer and the ſaid A. B. their lands and eſtates, and the controverted bounds lies, and his deputes, to take cognition in the ſaid matter, the way, manner, conform to, and in the terms of the act made by the Lords of Council and Seſſion anent moleſtations, in the year 1580; and ratified by our grandfather King James VI. of ever bleſſed memory, and three eſtates of parliament, by the 42d act of the 11th parl. held at Edinburgh 29th July 1587. And to diſcuſs parties rights, and ſummon an aſſize and witneſſes as to what

what conſiſts *in facto*; and accordingly the ſaid ſheriff and his deputes, being charged to proceed in the ſaid cognition, and to direct forth ſummons and precepts for that effect, and to do every other thing thereuntil, that by the ſaid acts is preſcribed and appointed, and that within fifteen days next after the charge, and with certification ſpecified in the ſaid letters; the ſaid ſheriff and his deputes, have cited the complainer, and intend to proceed in the ſaid matter, and pronounce and give forth their final ſentence condemnator againſt the ſaid complainer, albeit they be no ways judges competent to the ſaid complainer therein, for the reaſons and cauſes following. In the firſt, becauſe, by the laws and acts of parliament of this kingdom, and particularly by the ſaid act of the Lords of Seſſion, where the judge is ſuſpected or unable to judge in the ſaid cauſes for deadly feid, and other reaſons, which may decline the judge, or the place of judgement incompetent; and that therewith the party cannot have ſure acceſs for purſuit and defence in that caſe. The matter being moved to our Lords of Council and Seſſion, and found and declared by them: the other party being lawfully ſummoned, they ſhall appoint unſuſpected judges, and a place competent for the ſaid cognition and determination for the cauſes foreſaid, by commiſſion by their act and ordinance; or under the teſtimonial of the great ſeal by their deliverance, in the terms ſpecified in the ſaid acts. But ſo it is, that the ſaid principal ſheriff is moſt ſuſpected, in ſo far as, (here inſert the reaſons, whether conſanguinity, affinity or partiality, and iniquity done in the proceſs, and a teſtificate under famous gentlemens hands would be produced to the Lords to verify what aſſerted, and thereby facilitate the paſſing of the bill, and then ſay) and as for his deputes being of his own creation, and dependers, there is no queſtion but they will be altogether ruled by him: and ſhould he himſelf not ſit, but leave the matter in controverſy to them, is all one upon the matter, and nothing but injuſtice can be expected from them, as well as the principal ſheriff their conſtituent. Secondly, the place where the ſaid ſheriff and his deputes uſually ſit, is miles diſtant, from the ground and bounds controverted, beſides that, the aſſize or inqueſt being many in number, will be expoſed to croſſing of ferries, and now in the winter time not without hazard of their lives; and at no little expence in attendance, during the dependence of the ſaid cognition, and whole tract of the proceſs; whereas, were impartial judges nominate by our ſaid Lords, and the ground controverted made the place for meeting and diſcuſſing thereof, juſtice will be adminiſtrate impartially, and no ground left for reduction of the ſentence; and beyond all peradventure, the expence of attendance far leſs; and is all one to the inqueſt or aſſizers, and moſt convenient for the witneſſes, who either live upon the ground, or are adjacent neighbours. And the ſaid Lords, his majeſty and eſtates of parliament, foreſeeing that the like inconveniencies might afterwards ariſe, did moſt wiſely leave a door open for wholeſome and ſuitable remedies, and the ſaid acts are opponed; and ſo our ſaid Lords may evidently perceive, how wrongouſly and unjuſtly the ſaid ſheriff and his deputes intend to proceed in the ſaid matter, and pronounce ſentence therein in manner foreſaid, by all law, equity, and reaſon; and therefore the foreſaid cognition, and haill procedure therein, ought and ſhould be advocate from

from the ſaid ſheriff and his deputes to our ſaid Lords, at leaſt impartial and unſuſpected judges nominate by them, and the ordinary place altered to the ground of the lands controverted, or ſuch other place as the ſaid Lords ſhall think expedient in manner under-written, for the reaſons and cauſes foreſaid, and others as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn, and charge the ſaid D. R. of ſheriff principal of the ſaid ſhire, and his deputes before whom the ſaid cognition is purſued, and their clerk of court; and the ſaid A. B. at whoſe inſtance the ſaid cognition is purſued in manner foreſaid, for his intereſt perſonally, or at their dwelling-places, to compear before our ſaid Lords of Council and Seſſion at Edinburgh, or where it ſhall happen them to be for the time, the day of to be ruled by the deliverance on the back of the bill, in the hour of cauſe, with continuation of days, bringing with them the foreſaid letters of cognition, ground whereupon the ſame proceeds, charge given by virtue thereof, and precept raiſed and execute conform thereto, with all acts, warrants, and minutes of proceſs if any be made therein, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame advocate from the ſaid ſheriff and his deputes, to the ſaid Lords themſelves in time coming; or impartial and unſuſpected judges appointed by them in the ſaid matter, and the place altered, for the reaſons and cauſes foreſaid, and others. Attour, we, and the ſaid Lords in our name, have advocated; and by thir preſents advocate the foreſaid action and cauſe from the ſaid ſheriff and deputes, to the ſaid Lords themſelves, either to be decided and determined by them, or remitted to impartial and unſuſpected judges, and the place altered as they ſhall think expedient; diſcharging hereby the ſaid ſheriff and his deputes, from all further proceeding, cognoſcing, or decerning thereuntil, and of their officers in that part in time coming, in the mean time, while the day of (to be ruled by the deliverance of the bill) that the verity be known, according to juſtice as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Of this advocation, there muſt be a juſt double delivered by a meſſenger ſubſcribed with his hand, to the ſheriff and his deputes in court; and another to the purſuer of the cognition, and againſt whom the letters are raiſed.

LETTERS *of Arreſtment upon a Gift of Eſcheat.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of donator after ſpecified; that where the ſaid complainer obtained by gift under our privy ſeal, dated the day of laſt bypaſt, diſponed to him, his heirs or aſſignees one or more, the eſcheat of all goods, gear, (here inſert the words of the gift, till ye come to, at the inſtance of W. M. merchant burgeſs

geſs of and then ſay) in manner at the time, and for the cauſes ſpecified in the ſaid gift, as the ſame of the date foreſaid, ſhown to our Lords has teſtified; and whereupon the ſaid complainer, with concourſe of our advocate, raiſed ſummons, and intented action of general declarator at their inſtance, of the foreſaid eſcheat and gift thereof, againſt the ſaid C. D. the rebel, before our ſaid Lords of Council and Seſſion, as the ſame duly execute and indorſed, alſo ſhown to our ſaid Lords of Council and Seſſion, have teſtified; and the ſaid C. D. the rebel, knowing perfectly that the ſaid complainer will prevail in the ſaid declarator, and obtain decreet thereuntil, and thereafter purſue a ſpecial declarator on the ſaid decreet, both againſt himſelf, and all his debtors and intromitters with his goods and gear, he, in manifeſt defraud, hurt and prejudice of the ſaid complainer thereanent, intends, as he is informed, to intromit with, uplift, diſcharge, aſſign, ſell, uſe and diſpone upon the whole debts, ſums of money, corns, cattle, horſe, nolt, ſheep, inſight, pleniſhing, and all other goods and gear whatſomever pertaining to him, and falling within the verge and compaſs of the ſaid eſcheat and gift thereof above ſpecified, without remeid be provided thereto as is alledged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen ye paſs, and in our name and authority, fence and arreſt all and ſundry goods, gear, debts, ſums of money, corns, cattle, horſe, nolt, ſheep, inſight pleniſhing, and all other goods and gear whatſomever, pertaining and belonging, to the ſaid C.D. the rebel, where-ever, or in whoſe hands the ſame may, or can be apprehended, to remain under ſure fence and arreſtment, at the inſtance of the ſaid complainer, ay and while ſufficient caution and ſoverty be found, acted in our books of Council and Seſſion, that the ſame ſhall be made forthcoming to him as accords of the law, according to juſtice; becauſe, (take in the becauſe on the back of the bill, and then ſay) as ye will anſwer, *&c.* And let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Obſervations, the like letters may be raiſed at the inſtance of the King's donator, to the eſcheat and liferent, gift of nonentry, gift of ward, relief, nonentry and marriage, gift of baſtardy, whether of the real or perſonal eſtate, or both, gift of ultimus hæres, *recognition, and the like.*

LETTERS *of ſpecial Charge, at the Inſtance of an Appriſer againſt the Superior of the Lands appriſed, being a Subject, to enter Heir to his Father in the Superiority, that he may be in Capacity to infeft the Appriſer.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of that where by decreet and proceſs of appriſing, led and deduced within the new ſeſſion-houſe of Edinburgh, (here take in the narrative of the ſummons

mons of declarator raiſed in the ſame caſe, from the figure 6 till ye come to the figure 8. only call the word purſuer complainer always, and then ſay) and albeit it be of verity, that the ſaid complainer has not only charged the ſaid ſuperior with horning to receive him vaſſal in the lands and others above appriſed, holden of him as ſaid is, but likeways made real offer to him of one year's rent therefore, and which is all he was bound to give in law: Yet nevertheleſs, he not only refuſed to do the ſame, but likeways wilfully lyes forth, and will not obtain himſelf duly and lawfully ſerved, retoured, entered and infeft in the ſuperiority of the ſaid lands and others, appriſed as heir to the deceaſed of his father, who died laſt veſt and ſeized therein, to the effect he may be in capacity to enter and receive the complainer in vaſſal to him in the ſame; wherethrough the complainer, notwithſtanding of any diligence uſed, cannot have his right made complete, and ſhould the ſaid deceaſe unentered, the complainer will be highly prejudged, the debt for which his appriſing is led, being near to the value of the intereſt appriſed; wherefore neceſſary it is for the ſaid complainer, to have thir our letters of ſpecial charge to enter heir, direct at his inſtance againſt him, in manner, and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority command and charge the ſaid perſonally, or at his dwelling-place, to obtain himſelf duly and lawfully ſerved, retoured, infeft and ſeiſed, as heir in ſpecial to his ſaid deceaſed father, in the lands and others above appriſed, with the pertinents belonging to his ſaid deceaſed father, in ſuperiority, and wherein he may obtain himſelf entered and infeft as heir aforeſaid to him, and that within forty days, conform to the act of parliament, to the effect he may be in capacity to enter and receive the ſaid complainer in vaſſal and heritable tenant to him therein, and thereby have the right of the property thereof eſtabliſhed in his perſon, for payment and ſatisfaction to him of the foreſaid ſums, for which the ſaid appriſing was led and deduced as ſaid is, and thereby otherways due, of the law, after the form and tenor thereof, allowance and approbation written on the back thereof, horning raiſed thereupon, and charge given by virtue thereof in all points, the complainer being willing in that caſe to do and perform that duty incumbent to him, as ſuperior of the land, and in effect made offer thereof to him, in manner above expreſſed; with certification to the ſaid if he faill, he ſhall omit and tyne his ſaid right of ſuperiority, and haill duties and caſualties thereof, during all the days of his lifetime, and it ſhall be lawful to the ſaid complainer to take an entry in the ſaid lands, and others foreſaid from us, as ſuperior to his ſaid deceaſed father, who died laſt veſt and ſeiſed therein, and that the ſaid entry ſo taken ſhall be as valid and ſufficient to all intents and purpoſes, as if the ſaid were entered and infeft as heir in ſpecial in the ſame, and had actually granted the ſame entry himſelf, notwithſtanding he wilfully lye forth, and do not obtain himſelf entered and infeft as heir in ſpecial to him, in manner above expreſſed, according to juſtice, take in the becauſe on the back of the bill, as ye will anſwer to us thereupon, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

LETTERS *of ſpecial Charge at the Inſtance of a Perſon who is ſerved and retoured Heir in ſpecial to his Father in his Eſtate, and obtained Precept thereupon, directed to the Superior, under the Quarter-Seal, being a Subject for infefting him, but cannot take Effect, the Superior being only an apparent Heir, and not infeft himſelf; and therefore charging him to enter Heir, &c. in the Lands, to the Effect he may be in Capacity to receive him Vaſſal, &c.*

GEORGE, *&c.* to *&c.* meſſengers, *&c.* meaned and ſhown to us by A. B. of that where the ſaid complainer was upon the day of years, duly and lawfully ſerved, and retoured heir in ſpecial to the deceaſed C. B. of his father, in the lands and others after ſpecified, *viz.* (here inſert the lands as in the ſpecial retour, and then ſay) to be held of C. D. of as his immediate ſuperior, in manner, and for payment of the duty after expreſſed, and conform thereunto, obtained the three precepts out of the chancellary, directed to the ſaid C. D. as ſuperior for infefting the ſaid complainer as heir aforeſaid therein; but all the ſaid precepts returned *ſucceſſive* after others, and in due courſe of law to our chancellary without any obedience given thereunto; and albeit it be of verity, that the ſaid complainer has diſcuſſed his ſaid apparent ſuperior, by the ſaid three precepts, and offered to do that duty incumbent of the law, and preſented to him a precept of *clare conſtat*, to be ſubſcribed by him in order thereto, yet was abſolutely refuſed, ſo that the lands lye in non-entry, not only in his hands ſince the deceaſe of the complainer's father, but alſo lye in our hands by reaſon of non-entry ever ſince the deceaſe of the ſaid C. D. his father, and the complainer in both thereby heavily prejudged, nor yet will the ſaid C. D. (even ſince the laſt precept was execute) obtain himſelf duly and lawfully ſerved, retoured and infeft as heir in ſpecial to the deceaſed C. D. of his father, in the ſaid lands and others foreſaid, whereof he is apparent ſuperior, to the effect he may be in capacity to enter and receive the ſaid complainer as heir aforeſaid, in the property of the ſame, albeit oft and divers times deſired and required by the ſaid complainer thereto, without he be farther compelled, wherefore neceſſary it is for the ſaid complainer to have thir our letters direct at his inſtance againſt him, in manner and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling-place, to obtain himſelf duly and lawfully ſerved, retoured, entered, infeft and ſeiſed, as heir in ſpecial to his ſaid deceaſed father, in all and ſundry the lands and others above ſpecified, whereof he is ſuperior as ſaid is, and that within forty days conform to the act of parliament, to the effect above mentioned, and upon the complainer his doing that duty incumbent of the law as ſaid is, with certification to him, if he faill, he ſhall amit

and

and tyne the ſaid right of ſuperiority, and haill duties and caſualties thereof, during all the days of his lifetime, and it ſhall be leiſome and lawful to the ſaid complainer to take his entry therein from us as ſuperior to the ſaid deceaſed C. D. therein, and who died laſt veſt and ſeiſed in the ſame, holden of us, and that the ſaid entry from us ſhall be alſo valid and ſufficient as if the ſaid C. D. now of were ſerved, retoured and infeft as heir in ſpecial to his ſaid deceaſed father in the ſame, and had granted the ſaid entry himſelf, and that notwithſtanding he wilfully lies forth and will not enter himſelf heir in ſpecial to his ſaid deceaſed father therein, in manner above expreſſed: According to juſtice, take in the becauſe of the bill, as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, There muſt be a declarator purſued againſt the apparent heir, after the forty days are elapſed, in which the miniſters of ſtate and director of the chancellary and his deputes, and all parties having or pretending to have intereſt, muſt be called, which will be found amongſt the other ſummonſes,

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HORNING upon a Decreet of Removing before the Sheriff.

GEORGE, *&c.* To *&c.* meſſengers, *&c.* meaned and ſhown to us by A. B. of heritable proprietor of the lands and others after-ſpecified, that where (6) the ſaid complainer, as he who ſtands infeft in the lands of (here inſert the lands as in the decreet of removing) obtained decreet of removing at his inſtance, upon the day of laſt bypaſt, before the ſheriff of and his deputes, againſt C. D, M. H. W. B. and E. R. pretended tenants and poſſeſſors thereof, decerning and ordaining them to flit and remove themſelves, their wives, bairns, men tenants, ſervants, cotters and dependers, corns, cattle, goods and gear therefrom, and leave the ſame void and red at the term of Whitſunday then next, now laſt bypaſt, to the effect the ſaid complainer by himſelf, his men-tenants, ſervants, or others in his name, might then enter thereto, and peaceably poſſeſs, bruik, and enjoy the ſame, ſet, raiſe, uſe and diſpoſe thereupon, as his own proper lands and heritage at his pleaſure thereafter, in time coming, and that conform to the ſaid complainer his infeftment thereof, dated the day of years, duly regiſtrate, conform to the act of parliament, and warning made thereanent, forty days preceding the ſaid term, and in the order preſcribed by act of parliament, as the ſaid decreet of the date foreſaid, containing precept in the end thereof: and by virtue whereof, the forenamed perſons were charged to remove, to the effect foreſaid, 7. Shown to our Lords of Council and Seſſion has teſtified, and which precept and command whereof, they have not, nor will not obey, without they be compelled, as is alledged. Our will is herefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, com-

mand and charge the forenamed perſons, pretended tenants and poſſeſſors of the ſaid lands and others foreſaid, perſonally, or at their dwelling-places, to flit and remove themſelves, their wives, bairns, men-tenants, ſervants, cotters and dependers, corns, cattle, goods and gear, furth and from the ſame lands and others foreſaid, and leave the ſame void and red, to the effect above-mentioned, after the form and tenor of the ſaid decreet of removing, and precept therein contained, in all points, within ſix days next after the charge, under the pain of rebellion, and putting of them to our horn (after this follow forth the ſtile of a horning, but no poinding, and then ſay) according to juſtice, becauſe the Lords have ſeen the decreet above-written, as ye will anſwer to us thereupon, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Since it is ſaid formerly, that all hornings on inferior judges decreets, are to be on fifteen days, why not this? the anſwer is clear, removings are privileged, being peremptory.

Nota, Some raiſe caption after the tenants are charged, denounced, and regiſtrate at the horn, and others do not give themſelves the trouble, but raiſe letters of ejection direct to the ſheriff, and yet I begin firſt with the caption.

CAPTION *upon the ſaid Horning.*

GEORGE, *&c.* To *&c.* meſſengers, *&c.* meaned and ſhown to us by A. B. of heritable proprietor of the lands, and others after-ſpecified, That whereupon the day of laſt bypaſt, C. D. M. H. W. B. and E. R. pretended tenants and poſſeſſors of the lands and others after-mentioned, *viz.* (here inſert the lands as in the horning) were orderly denounced rebels, and put to the horn, by virtue of letters of horning, raiſed, uſed and execute at the inſtance of the ſaid complainer againſt them, for not flitting and removing themſelves, their wives, bairns, men-tenants, ſervants, cotters, dependers, corns, cattle, goods and gear furth and from the ſaid lands, and others above-written, and not leaving the ſame void and red at Whitſunday laſt, to the effect the ſaid complainer by himſelf, his men-tenants, ſervants, and others in his name, may enter thereto, and peaceably poſſeſs, bruik and enjoy the ſame, ſet, raiſe, uſe and diſpoſe thereupon at pleaſure, conform to his infeftment thereof, dated the day of years, and warning uſed by virtue thereof preceding Whitſunday laſt, and act of parliament made thereanent, and decreet of removing obtained at his inſtance againſt them in the ſaid matter, before the ſheriff of and his deputes, upon the day of alſo laſt bypaſt, as the ſaid letters of horning and executions thereof duly regiſtrate, conform to act of parliament ſhown to our Lords of Council and Seſſion have teſtified; under the proceſs of the which horn, the forenamed perſons rebels foreſaid, have continually lien and abiden ſinſyne, and yet daily haunt, frequent, reſort, and openly repair to kirks,

kirks, markets, (after this follow furth the ſtile of an ordinary caption, *uſque ad finem*) and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

LETTERS of Ejection upon the ſaid Decreet of removing, and Regiſtrate Horning.

GEORGE, *&c.* To *&c.* meſſengers, *&c.* meaned and ſhown to us by A. B. of That where (here take in the narrative of the former horning from the 6 figure to the 7, and then ſay, ſhown to our Lords of Council and Seſſion has teſtified, whereupon the ſaid complainer raiſed letters of horning at his inſtance, againſt the forenamed perſons, and by virtue thereof cauſed J. B. meſſenger paſs, upon the day of laſt bypaſt, and lawfully command and charge them in our name and authority, to flit and remove themſelves, their wives, bairns, men-tenants, ſervants, cotters, dependers, corns, cattle, goods and gear, furth and from the ſaid lands, and others foreſaid, and leave the ſame void and red, to the effect above mentioned, within ſix days next after the charge, under the pain of rebellion, and putting of them to our horn, and for their diſobedience, were, upon the day of alſo laſt bypaſt denounced thereto, and regiſtrate thereat, as the ſaid letters of horning, and executions thereof duly regiſtrate, conform to the act of parliament, alſo ſhewn to our ſaid Lords has teſtified; notwithſtanding whereof, the forenamed perſons moſt contemptuouſly continue in the ſaid poſſeſſion, and will not remove themſelves and their foreſaids therefrom, to the effect above-ſpecified, without they be farther compelled; wherefore neceſſary it is for the ſaid complainer, to have thir our letters direct at his inſtance, in manner, and to the effect after-mentioned, as is alledged. Our will is herefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſheriff-principal of and his deputes (within whoſe juriſdiction the ſaid lands and others foreſaid lie, and the forenamed perſons dwell and reſide) perſonally, or at their dwelling-places, to eject, flit, and remove the forenamed perſons, pretended tenants and poſſeſſors of the ſaid lands and others foreſaid, their wives, bairns, men-tenants, ſervants, cotters, dependers, corns, cattle, goods and gear, furth and from the ſaid lands and others above-written, and put the ſaid complainer, his men-tenants, ſervants, and others in his name, having his power, in the peaceable poſſeſſion thereof, and to uſe all the ſolemnities uſual and requiſite in the like caſes, after the form and tenor of the ſaid decreet of removing, regiſtrate horning following thereupon, and thir our letters in all points, within ſix days next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn, with certification to them, if

they

they fail, our other letters will be direct, charging them thereto *simpliciter*, according to justice, because the Lords have seen the decreet, and registrate horning above-written, as ye will answer to us thereupon, &c. and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Ordinarily the sheriff by himself or depute gives obedience, or makes a messenger his depute in that part, and so I omit to set down the simple horning, but if necessary, all that is to do, is to pass a bill, narrating the narrative of the horning, and its being registrate, and the letters immediately above written, and to subsume the sheriff was charged upon such a day to remove the tenants, and put the complainer in possession, as the said letters and executions thereof present to shew bears, and that the said sheriff has given no obedience thereto; wherefore necessary it is for the party, to have letters of horning direct at his instance against the said sheriff, in manner, and to the effect after-specified, and conclude simple horning against him: and this bill being passed, letters of horning are accordingly raised thereupon, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

LETTERS *in Supplement at the Heritor's Instance, against a Person out of the Kingdom, and his Tenant at Edinburgh Cross and Pier of Leith, warning him to remove, since by virtue of the Heritor's Precept it cannot be done.*

GEORGE, *&c.* to messengers, *&c.* meant and shown to us by A. B. of ; that where the said complainer stands heritably infeft and seised, in all and haill the lands of , lying within the parish of and sheriffdom of , as the instrument of seisin granted to him thereupon, duly registrate, conform to the act of parliament, in itself more fully proports. Likeas the said complainer has subscribed a precept of warning, dated the day of , for warning tenants and possessors of the said lands and others foresaid, forty days preceding the feast and term of Whitsunday next, conform to the act of parliament, to flit and remove themselves, their wives, bairns, men-tenants, servants, cotters, dependers, corns, cattle, goods and gear, furth and from the said lands, and others above specified, with the pertinents, and to leave the same void and red at the said term, to the effect, the said complainer by himself, his men-tenants, servants, and others in his name, may then enter thereto, and peaceably possess, bruik, enjoy, set, raise use, and dispose thereon, as his own proper lands and heritage, at his pleasure in time coming, conform to his said right and infeftment in all points. And in respect, W. M. and H. W. two of the said tenants, are presently furth of the kingdom, and so cannot be warned by virtue of the said precept, either personally, or yet at their dwelling house, therefore necessary it is for the said complainer,

complainer, to have thir our letters direct at his inſtance againſt them, (in ſupplement of the ſaid precept) in manner and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtraitly and command, that incontinent thir our letters ſeen, ye paſs, ſixty days before Whitſunday next, to the market-croſs of Edinburgh, and pier and ſhore of Leith, (and that in ſupplement of the ſaid precept) and there, by open proclamation, after three ſeveral oyeſſes, and public reading of the ſaid precept of warning thereat, and thereupon *reſpective*, ſeverally and *ſucceſſive* after others, in our name and authority, lawfully warn the foreſaid W. M. and H. W. two of the ſaid tenants and poſſeſſors, (in reſpect of their being forth of the kingdom for the time) to flit and remove themſelves, their wives, bairns, men-tenants, ſervants, cotters, dependers, goods and gear, forth and from the ſaid lands and others foreſaids, and to leave the ſame void and red at the ſaid feaſt and term of Whitſunday next to come, to the effect above mentioned; with certification to them if they failzie, in manner ſpecified in, and conform to the ſaid precept of warning, and act of parliament made anent removing of tenants from lands, in all points; according to juſtice, as ye will anſwer to us thereupon, *&c.* Let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Warning muſt be uſed at their dwelling-houſe, on the ground, and church-door beſides, and that by virtue of the precept itſelf.

LETTERS *in Supplement at Edinburgh Croſs, and Pier of Leith, againſt a Debtor forth of the Kingdom, for Requiſition of the Money due by an heritable Bond.*

GEORGE, *&c.* to meſſengers, *&c.* meant and ſhown to us by A. B. of , that where C. D. of , by his bond dated the day of years, granted him to have borrowed and received from the ſaid complainer, the ſum of Scots money: and for ſecurity whereof, he bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeize the ſaid complainer, his heirs and aſſignees whatſomever, heritably, in all and haill an annualrent of money foreſaid, as the preſent annualrent of the ſaid principal ſum, (or in any other annualrent effeiring and correſpondent thereto, that by any ſupervenient law ſhould happen to be eſtabliſhed within this kingdom for the future) yearly to be uplifted and taken at two terms in the year and by equal portions, forth of all and haill the ſaid C. D. his lands of , lying within the pariſh of , and ſheriffdom of , or any part or portion thereof, and readieſt mails, farms, canes, cuſtoms, caſualties, profits and duties of the ſame, and that by double infeftments and manner of holdings, to be holden with warrandice, and under

der reverſion in manner ſpecified in the ſaid heritable bond, whereby the ſaid C. D. obliges him and his foreſaids, to make payment to the ſaid complainer and his foreſaids, of the ſaid annualrent yearly at the terms, and by equal portions in manner foreſaid, beginning the firſt term's payment thereof at the term of even next to come, (for the term immediately preceding) and ſo forth termly thereafter, during the not-redemption, with the ſum of money foreſaid of liquidate expences for ilk terms failzie in caſe thereof, and that by and attour the ſame, and together therewith: and notwithſtanding of the premiſſes, yet if it ſhould pleaſe the ſaid complainer, or his foreſaids, rather deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity of the ſaid annualrent, then and in that caſe, the ſaid C. D. bound and obliged him, and his foreſaids, to make payment to them thereof, at the term of and years, or at any other term, even thereafter the ſaid complainer or his foreſaids pleaſed as ſaid is, upon lawful requiſition of forty days of before, to be made by them to the ſaid C. D. or his foreſaids for that effect, perſonally, or at their dwelling places, in preſence of an nottar and witneſſes as effeirs, with the haill bygone annualrents reſting for the time, and termly failzies thereof above mentioned if incurred, together with the ſum of money above written, of liquidate penalty in caſe of failzie, and that by and attour the ſaid principal ſum, annualrents thereof, termly penalties, and together therewith, (6) as the ſaid heritable bond of the date foreſaid, ſhown to our Lords of Council and Seſſion has teſtified. And in reſpect the ſaid complainer intends to uſe requiſition for the ſaid ſums, for payment thereof at the term of even next to come, and that the ſame cannot be uſed perſonally, or at his dwelling, conform to the ſaid bond and clauſe of requiſition therein contained, in reſpect the ſaid C. D. is for the preſent out of the kingdom, therefore neceſſary it is for him to have thir our letters (in ſupplement) direct at his inſtance, againſt the ſaid C. D. in manner, and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen ye paſs, (ſixty days before the term of next with the ſaid complainer, or his attorney, or procurator lawfully conſtitute by him to the effect after mentioned, and in preſence of a nottar and witneſſes) to the market-croſs of Edinburgh, and pier and ſhore of Leith *reſpective* and *ſucceſſive* after others, and there, in our name and authority, lawfully require the ſaid C. D (in reſpect for the preſent he is forthwith the kingdom) to provide and have in readineſs the ſaid principal ſum of money foreſaid, with the annualrents reſting for the time, and termly penalties thereof above ſpecified, againſt the term of even next to come, and to make payment then to the ſaid complainer thereof, for redemption of the ſaid annualrent upliftable forth of the ſaid lands in manner foreſaid: and to proteſt, that if he failzie therein, he ſhall incur and be liable in payment of the foreſaid penaly of money above written, and that by and at tour performance of the premiſſes: and together therewith, and thereupon take inſtruments after the form and tenor of the ſaid heritable bond, and clauſe of requiſition therein contained, in all points, according to juſtice, becauſe the Lords have ſeen the heritable bond

bond above written, as ye will anſwer to us thereupon, *&c.* And let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Some heritable bonds and contracts of wadſet, proper and improper, bear this clauſe; or in the like terms after the clauſe of requiſition, *viz.* and it is hereby expreſsly provided and declared, that the uſing of the ſaid requiſition, or any real or perſonal diligence, and execution to follow thereupon, ſhall not looſe, hurt, prejudge, innovate or infringe the infeftment and right of annualrent above ſpecified: and that the foreſaid infeftment and right of annualrent, ſhall not hurt, prejudge, innovate or infringe the foreſaid requiſition, real or perſonal diligence, and execution to paſs thereupon, but that it ſhall be lawful to the ſaid A. B. and his foreſaids, to make uſe of all, or either of them, conjunctly or ſeverally, as accumulative or diſtinct rights in their option, in all time coming; and that but any innovation or confuſion of rights.

Nota, If any ſuch clauſe fall out, the ſame would be always inſert at this 6 figure *ad longum;* and before after the form and tenor in the will, more accurately thus, and with and under the proviſion, condition and declaration above mentioned.

Nota, I have ſeen bonds diſpenſing with that of Edinburgh croſs, and pier of Leith, but I never uſed it myſelf, judging it more ſafe to walk by the law.

ADVOCATION *at the Inſtance of the very Purſuer of the Proceſs, from an inferior Judge, (which is rare, and yet juſt) upon Iniquity.*

GEORGE, *&c.* to ſheriffs in that part, *&c.* meant and ſhown to us by A. B. of ; that where the ſaid complainer having raiſed ſummons, and intented action at his inſtance before the ſheriff of and his deputes, againſt C. D. of , touching the decerning of him by their decreet, to make payment to the ſaid complainer of the ſum of , as the mails and duties of the lands of , lying within the pariſh of , and ſheriffdom of , of the crop and year years, due by him as tackſman and poſſeſſor thereof, and of the like duty yearly ſinſyne, and in time coming during his poſſeſſion; and to which lands the complainer has right by appriſing, led and deduced at his inſtance, againſt W. M. of heritor thereof, upon the day of years; and whereupon there were letters of horning raiſed and execute againſt the ſuperior, a charter obtained in obedience thereunto, and he accordingly infeft. And in which action, M. J. B. of , having alſo compeared for his intereſt, and produced a ſeiſin, dated the day of years, proceeding upon a charter of appriſing, granted to him by the ſame ſuperior, dated the day of years, following upon an appriſing led at his inſtance of the ſaid lands, againſt the ſaid W. M. of , upon the day of years; and being admitted, the ſaid ſheriff, (at leaſt his depute) intends to prefer him to the complainer's right, and thereby appears moſt partial for the reaſons and cauſes following. In the firſt, becauſe the

complainer, his right is truly in law preferable, in ſo far as, albeit the party compearing for his intereſt, had ſo much power with the ſuperior, as to obtain the firſt charter, and thereupon infeft; yet the complainer, ſeveral months, before any ſuch entry, charged the ſuperior with horning; and however he ſuſpended the complainer, who was thereby protracted and delayed for ſo long time, and that the date of his charter and ſeiſin following thereupon be poſterior, it is preferable notwithſtanding, and in law brought back to the date of the charge and horning. To which, and decreet of ſuſpenſion following thereupon, the complainer's charter is relative; and being *in curſu diligentiæ*, cannot, by the ſuperior's act be prejudged in the leaſt, and a charge of horning is equivalent to a charter, and ſo frequently decided by our Lords of Council and Seſſion; and yet the ſaid ſheriff-depute, by an interlocutor, has preferred the firſt charter and ſeiſin thereon, without reſpect to the complainer's diligence aforeſaid, and thereby has committed palpable injuſtice and iniquity. Secondly, However, in the firſt inſtance, and in the principal action of mails and duties, the ſheriff or his deputes, might be judges competent; yet when the other party compeared, and produced his intereſt, whereby the ſubject-matter purſued for, reſolved in a double poinding; and ſo dipping upon double rights and infeftments, by the laws and acts of parliament of this kingdom, our ſaid Lords of Council and Seſſion (and no inferior judges) are only judges competent and unſuſpect thereto; and ſo our ſaid Lords may evidently perceive, how wrongouſly and unjuſtly the ſaid ſheriff (at leaſt his ſaid deputes) have pronounced the foreſaid interlocutor, contrary to all law, equity and reaſon; and therefore the foreſaid action and cauſe, ought and ſhould be advocate from the ſaid ſheriff and his deputes, to the ſaid Lords themſelves, as only judges competent and unſuſpect thereto; and the ſaid ſheriff and his deputes, and all other inferior judges within this kingdom, diſcharged from all further proceeding, cognoſcing, or decerning thereuntil in time coming, for the reaſons and cauſes foreſaid, and others, as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn, and charge the ſaid ſheriff and his deputes, before whom the ſaid principal action was purified, and wherein the ſaid other party compearing for his intereſt as ſaid is, and their clerk of court and the ſaid M J. B. party, compearing for his intereſt in manner foreſaid, perſonally, or at their dwelling-places, to compear before our ſaid Lords of Council and Seſſion at Edinburgh, or where it ſhall happen them to be for the time, the day of (to be regulate by the back of the bill) if it be lawful; and failing thereof, the next lawful day thereafter following in the hour of cauſe, with continuation of days, bringing with them the principal libelled ſummons, or precept raiſed in the ſaid matter, with the executions thereof, and intereſt produced for the ſaid M. J. B. with the haill acts, interlocutors and minutes of proceſs made therein, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame advocate to themſelves, as only judges competent and unſuſpect thereto; and the ſaid ſheriff and his deputes, and all other inferior judges within this kingdom, diſcharged from all farther proceeding, cognoſcing or decerning thereuntil in time coming, for the reaſons and cauſes foreſaid, and others. Attour, we and our

ſaids

ſaid Lords of Council and Seſſion, in our name, hereby advocate the foreſaid action and cauſe from the ſaid ſheriff and his deputes, and all other inferior judges to the ſaid Lords themſelves, diſcharging hereby the ſaid ſheriff and his deputes, and all other inferior judges within this kingdom, from all further proceeding, cognoſcing, or decerning therein in time coming, while the days of , (in this be regulate in the bill, and then ſay) that the verity be known, according to juſtice as ye will anſwer to us thereupon, *&c.* And let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

ADVOCATION *at the Inſtance of a Creditor who compears for his Intereſt in a Proceſs commenced by another Creditor, againſt a Perſon that is Debtor to them both, and to ſeveral others, and compearing and producing his Intereſt in the Competition, and meets with Injuſtice.*

GEORGE, *&c.* to our ſheriffs, *&c.* meant and ſhown to us by A. B. of lawful creditor to C. D. of , that where J. M. merchant-burgeſs of being alſo creditor to the ſaid C. D. having raiſed precept or ſummons before the ſheriff of and his deputes againſt W. M. of and the ſaid C. D. for his intereſt, touching the decerning of the ſaid W. M. to make forthcoming, payment, and deliverance to him of the ſum of money, leſs or more addebted, and reſting owing by the ſaid W. M. to the ſaid C. D. by bond, paction, or otherwiſe, and arreſted in his hands by the ſaid J. M. at leaſt ſo much thereof as will ſatisfy and pay the ſaid J. M. of the ſum of money foreſaid of principal, with annualrents and expences, contained in a bond granted to him by the ſaid C. D. thereupon, of the date the day of years, regiſtrate in the books of Council and Seſſion the day of laſt bypaſt, there was compearance made in the ſaid proceſs by L. D. merchant in O. F. merchant in , W. H. of , and ſeveral other creditors of the ſaid C. D. and produced their ſeveral intereſts, and the ſaid complainer likewiſe compeared and produced his intereſt, viz. an aſſignation made to him of the ſaid debt arreſted, dated the day of years, with an inſtrument of intimation thereof made by the common debtor, dated the day of and betwixt the hours of and the ſaid day, and ſo antecedent to the ſaid arreſter, and in effect to all the other perſons compearing and competing their ſeveral intereſts produced; and yet notwithſtanding the ſaid ſheriff and his deputes intend to proceed in the ſaid action, and pronounce and give forth ſentence condemnatory againſt the ſaid complainer, preferring the ſaid L. D. one of the competitors, and that moſt wilfully and partially, albeit they be not now judges competent therein, for the reaſons following. In the *firſt*, becauſe by the laws and acts of parliament of this kingdom, no inferior judge ought to meddle with,

or determine in actions that dip and depend either upon double infeftments, or double rights; but ſo it is, that this action as it ſtands now ſtated (however originally, *et prima inſtantia*, but a forthcoming) dips and depends upon double rights, *viz.* the complainer's aſſignation and intimation thereof, and ſpecific hour of the ſaid intimation, and upon the ſaid L. D. his arreſtment laid on the ſaid ſum the ſame individual day, and in the competition as the ſaid complainer's intimation bears a ſpecific hour; ſo it was offered to be proven by him, not only by the oaths of the meſſenger that arreſted, and witneſſes inſert in his executions, but even by the arreſter himſelf, that the pretended arreſtment was not laid on, no not for three hours thereafter, *et vigilantibus non dormientibus jura ſubveniunt*; and yet the ſaid ſheriff and his deputes intend to prefer the ſaid L. D. if not wholly, yet at leaſt *pari paſſu* with the complainer, upon no other ground or ſhadow, but that the intimation and arreſtment were in one day, but forbears the making diſtinction of hours, albeit the law be poſitive, and therefore all ſeizings bear not only hours, but whether in the fore or in the afternoon, and all, (no doubt) to be a true ground of preference betwixt right and right, by which the partiality and iniquity of the ſaid ſheriff and his deputes, are moſt obvious and apparent, and thereby the whole action entirely as it ſtands, ought to be advocate from them, and all other inferior judges, to our Lords of Council and Seſſion, as only judges competent, and unſuſpect thereto. *Secundo*, the foreſaid action ought to be advocate to the ſaid Lords, becauſe the ſaid ſheriff is couſin-german to the ſaid L. D. as appears by a teſtificate under famous gentlemens hands, produced to the ſaid Lords, and the ſaid deputes being of his own creation, no juſtice can be expected from them, no more than from himſelf, and ſo our ſaid Lords may evidently perceive how wrongouſly and unjuſtly the ſaid ſheriff and his deputes intend to proceed in the ſaid matter, and pronounce decreet therein, in manner above expreſt: after this follow forth the ſtile of the former advocation *uſque ad finem, et mutatis mutandis*, as to the day of compearance, and other day to which advocate, which the deliverance of the bill clears, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

HORNING *and Poinding on a Decreet of Spuilzie, Intruſion and Ejection having days.*

GEORGE, *&c.* to meſſengers, *&c.* greeting; foraſmuchas, A. B. obtained a decreet at his inſtance, before our Lords of Council and Seſſion, upon the day and date of thir preſents, againſt C. D of M. J. B. of and W. H. of for the cauſes therein ſpecified, finding and declaring, that the forenamed perſons have done wrong, in the wrongous, violent and maſterful coming by themſelves, and others in their names, of their cauſing, ſending,

ing,

ing, and hounding out, in the month of , years, and upon one or other of the days thereof, to the ground of the ſaid A. B. his lands of lying within the pariſh of and ſheriffdom of whereof, he by himſelf, men-tenants and ſervants was in the peaceable poſſeſſion, by doing all deeds of property and commonty of the law requiſite and neceſſary, and therein the wrongous, violent and maſterful intruding themſelves in the poſſeſſion thereof, and ejecting the ſaid A. B. and his ſaid men-tenants and ſervants forth of the ſame, and in like manner in ſpuilzieing and away taking at the ſame time from off the ground of the ſaid lands, from the ſaid A. B. and his foreſaids, of the goods, gear, corns, cattle, horſe, nolt, ſheep, pleniſhing, and others after ſpecified, of the avails, quantities, eſtimations and prices after mentioned, and keeping and detaining the ſame from them, together with the excreſcent profits thereof, in working, riding, and hire-gang, milkneſs and otherways, daily, and each day, yearly, and each year, continually ſinſyne, extending the ſaid prices and excreſcent profits, in manner after rehearſed, *viz.* (here inſert the goods ſpuilzied, with their prices, excreſcent profits and prices thereof, as decerned by the decreet, and then ſay) and which reſpective values and prices the ſaid beſtial and goods were worth, and likeways in excreſcency would have yielded to the ſaid A. B. and his ſaid tenants and ſervants had the ſame remained with them, and they ſuffered to have continued in peaceable poſſeſſion thereof; and therefore decerning and ordaining them to reſtore and deliver to him the ſaid goods, and make payment to him of the ſaid prices, and to make payment to him of the bygone excreſcent profits or prices thereof above ſpecified; and ſicklike to make payment to the ſaid A. B. of the like (6) excreſcent profits, work, and hire-gang, daily and each day, and yearly and each year *reſpective* in all time coming, ay and while they make reſtoration or payment of the prices and values above ſpecified, and likeways to reſtore the ſaid A. B. and his ſaid tenants and ſervants to the real, actual and peaceable poſſeſſion of the ſaid lands and others aforeſaid, and haill houſes, biggings, mill, kill, barn, byers, and others being thereupon the time aforeſaid of the ſaid illegal intruſion and ejection, and in as good caſe and condition as they then were, and to make payment to the ſaid A. B. of the ſum of money aforeſaid, for each boll of bear, the ſum of for each boll of oats, and the ſum of for each boll of peaſe, and the ſum of for each boll of beans, and the ſum of for each boll of bolls rye ſown by the ſaid A. B. and his ſaid tenants and ſervants in the ſaid lands, the year of the ſaid illegal intruſion and ejection, together with the ſum of for each boll of bear for each boll of oats, for each boll of peaſe, for each boll of beans, and for each boll of rye, which the ſaid lands and others aforeſaid would, according to the ſowing aforeſaid, have yielded in profit and excreſcency, the ſaid year of the ſaid illegal intruſion and ejection, had the forenamed perſons not ejected the ſaid A. B. and his ſaid tenants and ſervants forth thereof, and wrongouſly, violently and maſterfully intruded themſelves therein, in manner above expreſſed: And laſtly, to make payment to the ſaid A. B. of the like number of bolls of the ſeveral grains above mentioned, or of the prices thereof

thereof above rehearſed, yearly ſinſyne, and ſicklike yearly in time coming, ay and while they enter the ſaid A. B. and his foreſaids to the actual, real and peaceable poſſeſſion of the ſaid lands and others foreſaid, conform to the ſaid A. B. his rights and infeftments of the ſame, libelled upon, and produced the time of the obtaining of the ſaid decreet (7) in all points, as the ſaid decreet of the date foreſaid, ordaining thir our letters to be direct thereupon in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the forenamed perſons perſonally, or at their dwelling-places, to reſtore and deliver to the ſaid A. B. the ſaid goods, or make payment to him of the ſaid prices, and alſo to make payment to him of the ſaid bygone excreſcent profits or prices thereof above ſpecified, and ſicklike to make payment to him of the like (here take in as before the will from the 6 figure to the 7. and then ſay) after the form and tenor of the ſaid decreet, in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of them to our horn, (after this follow forth the ſtile of an ordinary horning and poinding, but after the words of the poinding ſay, to the avail and quantity of the ſaid liquidate ſums, after the form and tenor of the ſaid decreet, in all points, according to juſtice, as ye will anſwer to us thereupon, *&c.* and let the date of the decreet be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

Nota, As intruſions, ejections and ſpuilzieations, are in effect crimes, and may be purſued before the council or juſtice-court, ſo, and more frequently, parties purſue ſuch before the Lords of Seſſion, who make all the defenders liable *in ſolidum*, and when ſo, they may be charged conjunctly and ſeverally, but in this the Lords decreet in what terms ſoever conceived muſt be the writer's rule, in raiſing of horning or other diligence.

HORNING *upon a Decreet of Exhibition and Delivery of Writs.*

GEORGE, *&c.* to meſſengers, greeting: Foraſmuchas A. B. of obtained a decreet at his inſtance before our Lords of Council and Seſſion, upon the day and date of thir preſents againſt C. D. of (for the cauſes therein ſpecified) decerning and ordaining him to give up and deliver to the ſaid A. B. the writs and evidents following, *viz.* (here inſert the writs in the terms of the decreet, and then ſay) to be kept and uſed by the ſaid A. B. his heirs and aſſignees, as their own proper writs and evidents, and as the rights and ſecurities of the lands of with the teinds of the ſame diſponed and aſſigned by the ſaid C. D. to the ſaid A. B. and his foreſaids heritably, conform to the diſpoſition granted thereanent, dated the day of years, at their pleaſure, in time coming, as the ſaid decreet of the date aforeſaid, ordaining thir our letters

letters to be direct thereupon, in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid C. D. perſonally, or at his dwelling-place, to give up and deliver to the ſaid A. B. the writs and evidents above ſpecified, of the lands, teinds, and others above mentioned, to be kept and uſed by him and his foreſaids, as their own proper writs and evidents, at their pleaſure, in time coming, after the form and tenor of the ſaid decreet, in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of him to our horn, (follow forth the ſtile of an ordinary horning without poinding, and then ſay) according to juſtice, as ye will anſwer, *&c.* and let the date of the decreet be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

HORNING *upon a Decreet of Exhibition of Writs in the Clerk's Hands, for Tranſumpts to a Party having Intereſt, againſt the Repreſentative of the Diſponer of Lands.*

GEORGE, *&c.* to meſſengers, *&c.* greeting: Foraſmuchas A. B. of - obtained a decreet at his inſtance before our Lords of Council and Seſſion upon the day and date of thir preſents, againſt J. D. of eldeſt lawful ſon and heir to the deceaſed C. D. of (for the cauſes therein ſpecified) decerning and ordaining him to exhibit and produce in the hands of S. A. G. one of the clerks of Seſſion, the writs and evidents following, *viz.* (here take in the writs as in the decreet, and then ſay) to the effect the ſame may be judicially tranſumpted, and the authentic tranſumpts thereof delivered to the ſaid A. B. under the hand and ſubſcription of our clerk of regiſter, or his deputes, for his ſecurity of the lands of with the teinds and pertinents thereof, lying within the pariſh of and ſheriffdom of and whereunto the ſaid A. B. has right, in manner ſpecified in the ſaid decreet, as the ſame of the date aforeſaid, ordaining thir our letters to be direct thereupon, in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid J. D. perſonally, or at his dwelling-place, to exhibit and produce in the hands of the ſaid S. A. G. one of our clerks of Seſſion, the writs and evidents above ſpecified, to the effect the ſame may be judicially tranſumpted, and the ſaid tranſumpts under the hand of our clerk-regiſter, or his deputes, delivered to the ſaid A. B. for his ſecurity of the lands, teinds, and others above mentioned, after the form and tenor of the ſaid decreet, in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of him to our horn, (after this follow forth the ſtile of an ordinary horning without poinding

poinding, and then ſay) according to juſtice, as ye will anſwer, *&c.* and let the date of the decreet be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

LETTERS *of looſing an Arreſtment, becauſe the Debt was ſuſpended, and Caution found, and the Arreſtment laid on afterwards, conform to an Act of Sederunt, which differs from the former looſing of an Arreſtment among the real and perſonal Diligence.*

GEORGE, *&c.* to meſſengers, *&c.* meant and ſhown to us by A. B. of That where W. H. of has upon his pretended manner, and by virtue of letters of horning, containing poinding and arreſtment, raiſed at his inſtance againſt the ſaid complainer, cauſed fence and arreſt in the hands of C. D. of the ſum of Scots money, leſs or more, addebted by him to the ſaid complainer, by bond or otherways, (6) to remain under ſure fence and arreſtment at the inſtance of the ſaid W. H. ay and while he be ſatisfied and paid of the ſum of money foreſaid of principal, with certain annualrents and expences, contained in a bond granted by the ſaid complainer, to him thereupon, of the date the day of years, regiſtrate in the books of council and ſeſſion the day of and that moſt wrongouſly and unjuſtly; conſidering it is of verity, that the ſaid complainer being charged with horning, at the inſtance of the ſaid W. H. for payment of the ſaid debt, he meaned himſelf to our Lords of Council and Seſſion; and upon certain relevant and pregnant reaſons, and finding of ſufficient caution, obtained ſuſpenſion in the ſaid matter, diſcharging all further execution therein, and which lies over as yet undiſcuſſed, as the ſame ſhown to the ſaid Lords has teſtified. Likeas, the ſaid Lords, by their act of ſederunt, upon the grounds and conſiderations therein mentioned, ordained arreſtments made after ſuſpenſion, and finding of caution therein, to be looſed without caution or conſignation, even albeit laid on, by virtue of arreſtments founded upon regiſtrate bonds, decreets, or the like. But ſo it is, that the ſaid ſuſpenſion was raiſed upon the day of laſt bypaſt, and the ſaid pretended arreſtment was only made, and laid on in the the copy of the ſaid arreſtment alſo ſhown to the ſaid Lords has teſtified. And in effect the ſaid arreſtment is only laid on of purpoſe, and moſt maliciouſly, to render the complainer incapable to raiſe his own money, and ſatisfy his own debt therewith; and ſo our ſaid Lords may evidently perceive, how wrongouſly and unjuſtly the foreſaid arreſtment was laid on after ſuſpenſion, as ſaid is, by all law, equity and reaſon, and contrary to the ſaid act of ſederunt; and therefore the foreſaid pretended arreſtment, ought and ſhould be looſed but caution or conſignation

nation in manner after-ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, looſe the foreſaid pretended arreſtment, made and laid on in the hands of the ſaid W. M. after ſuſpenſion and finding of caution therein in manner foreſaid, and how oft any ſuch pretended arreſtment be laid on in time coming: that ye in our name and authority, looſe the ſame as oft of new again, upon the foreſaid caution found in the ſaid ſuſpenſion as ſaid is, and that ye intimate the looſing of the ſaid arreſtment to the ſaid W. M. perſonally, or at his dwelling place, and deliver to him a juſt and authentic copy thereof, or affix and leave the ſame in the lock-hole of the moſt patent gate or door of the ſaid dwelling-houſe in caſe he cannot be found perſonally, after knocking ſix ſeveral knocks thereat as uſe is, containing the day of the looſing of the ſaid arreſtment, and that the ſaid looſing of arreſtment is paſt without caution or conſignation upon the grounds foreſaid, together with the witneſſes names, ſirnames, and deſignations, preſent with you at the looſing thereof, otherways the ſaid arreſtment to remain unlooſed, according to juſtice becauſe (here take in the becauſe on the back of the bill, and then ſay) as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, In caſe the creditor has arreſted in the hands of more perſons than one, the writer may ſay in the narrative, that ſuch a perſon has (by virtue of letters of horning, containing poinding and arreſtment, raiſed at his inſtance againſt the complainer) cauſed fence and arreſt in the hands of diverſe and ſundry perſons, debtors, and tenants to the ſaid complainer, all and ſundry goods, gear, debts, ſums of money, corns, cattle, inſight, plenifhing, mails, farms, profits and duties of lands, tenements, and others pertaining and belonging to him. (After the 6 figure follow forth the former ſtile *uſque ad finem*; only whereas the former was called but an arreſtment in the ſingular number, let it be termed arreſtments in the plural.)

LETTERS *of Intimation to the Apparent Heir of the Seller of Lands, and his Tutors and Curators, at the Inſtance of the Acquirer, of ſome Diſtreſs and Action of Eviction intented againſt him, of the Lands and others diſponed.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of that whereas M. J. B. of now deceaſed, by his diſpoſition dated the day of years, (for the onerous cauſes therein ſpecified) ſold, annalzied and diſponed to the ſaid complainer, his heirs and aſſignees therein mentioned, heritably and irredeemably, all and haill, (here inſert the lands as in the diſpoſition, and then ſay) lying in manner therein expreſſed; and bound and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe

the ſaid complainer and his foreſaids therein, by double infeftments and manner of holdings, to be holden in manner therein rehearſed, and to grant all rights requiſite thereanent, with abſolute warrandice againſt all incumbrances and grounds of eviction whatſoever, at all hands, and againſt all deadly, in manner ſpecified in the ſaid diſpoſition, which contains procuratory of reſignation, precept of ſeiſin, and divers other obligements, articles and clauſes, conceived in favour of the ſaid complainer and his foreſaids, as the ſame of the date foreſaid in itſelf more fully proports. And true it is, that the ſaid complainer is cited before our Lords of Council and Seſſion, to the day of next to come, in an action of reduction, improbation and declarator, raiſed at the inſtance of W. M. of of the right of the ſaid lands in order, as would appear to evict the ſame from the complainer: and albeit it of be verity, that he has oft and divers times deſired and required J. B. now of eldeſt lawful ſon and heir, at leaſt apparent heir to the ſaid deceaſed M. J. B. of granter of the ſaid diſpoſition, and his tutors and curators for their intereſts, to relieve him of the ſaid diſtreſs; nevertheleſs they wrongouſly refuſe, poſtpone, and defer to do the ſame, without they be compelled: and in reſpect the ſaid J. B. is minor, and that he either wants tutors and curators, or are not known; therefore neceſſary it is for the ſaid complainer, to have thir our letters of intimation, direct at his inſtance againſt them, in manner, and to the effect after-ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs with the ſaid complainer, or his attorney in his name, having his power and warrant, and in preſence of a notary and witneſſes as effeirs, and in our name and authority, make due and lawful intimation of the ſaid diſtreſs to the ſaid J. B. of perſonally, or at his dwelling-place for the time, and to his ſaid tutors and curators, if he any has, for their intereſts, by open proclamation at the market croſs of and other places needful, to the effect they may compear and defend in the ſaid action of reduction, improbation and declarator, intented againſt the ſaid complainer as ſaid is, and warrant him and his foreſaid againſt the ſame, conform to the ſaid diſpoſition and clauſe of abſolute warrandice therein contained, in all points, proteſting that they may be liable *in eventu*, as to all damage aud prejudice the complainer and his foreſaids ſhall happen to ſuſtain therethrough, either by eviction, expences of plea, or otherways; and that the ſaid J. B. and his ſaid tutors and curators, may have the better knowledge of the ſaid intimation, to give inſpection to the ſaid J. B. if he can be apprehended, of the ſaid copy and citation, and likewiſe deliver to him a juſt double thereof: and in caſe he cannot be perſonally apprehended, that ye affix and leave the ſaid double in the lock-hole of the moſt patent gate or door of his ſaid dwelling place; and ſicklike affix and leave another double thereof at the ſaid market-croſs, before famous witneſſes, according to juſtice as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota,

Nota, The bill of thir letters needs no inſtruction in the bill-chamber, being only an intimation of a diſtreſs, *et periculo impetrantis*; but if the clerks will have it ſo, let the diſpoſition and copy be produced, and in that caſe bill and letters muſt bear it: and after *according to juſtice*, the becauſe on the back of the bill muſt be inſert. And in the bill you muſt ſay, preſent to ſhow bears: and, in the letters, ſhown to our Lords of Council and Seſſion has teſtified.

Nota, Some clauſes of warrandice have a proviſion ſubjoined, that if any action of eviction be intented, the acquirer make intimation thereof to the diſponer or his heirs, that they may compear and defend, and to make the writs and evidents delivered forthcoming for that effect, and other clauſes of warrandice have it not; but however, it is juſt it be done, and the law, and the very nature of a warrandice imports no leſs, elſe the acquirer might comply in the eviction, and thereafter purſue his warrandice againſt the diſponer and his heirs, who thereby are precluded from their juſt and lawful defences. And yet in all ſummonſes, intending to an eviction which I drew, I not only conveened the heritor in poſſeſſion, but alſo his author; and that becauſe of the abſolute warrandice, and made a ſhorter proceſs: for when the action comes in by the courſe of the roll, the defender will crave an incident for the writs, if in his author's hands; and if the author be not cited, will prove a delay until cited, if not caſt the proceſs.

LETTERS *of Publication of an Interdiction.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. of C. D. of M. J. B. of W. H. and J. M. merchant-burgeſs of and M. L. maſon, burgeſs of and W. L. wright, burgeſs there; that where T. W. eldeſt lawful ſon and heir to the deceaſed T. W. of by his letter of interdiction and obligation, ſubſcribed with his hand, of the date the day of laſt bypaſt, (for the cauſes and upon the conſiderations therein ſpecified) and for the preſervation of his fortune and eſtate, interdicted himſelf during all the days of his life-time, to the ſaid complainers as his friends, relations, and in whom he had entire confidence, and any three of them in life for the time, appointed a quorum; and without whoſe conſents or quorum foreſaid, he bound and obliged him not to ſell, annalzie, wadſet, diſpone, dilapidate, nor put away any of his lands, heritages, tenements, annual-rents, mills, woods, fiſhings, tacks, ſteadings, rooms, poſſeſſions, heritable bonds, tacks and rights of teinds and prorogations thereof, reverſions, appriſings, adjudications, or others pertaining or belonging to him; nor make no private nor public alienations, diſpoſitions, wadſets, aſſignations, reſignations, renunciations, nor no other rights nor ſecurities thereof; nor to contract nor take on debt, or yet grant bonds or any other ſecurities therefor; nor do no other fact nor deed directly or indirectly in any ſort, whereby the right of his ſaid lands and heritages, or others foreſaid, might be any ways evicted, adjudged or appriſed from him, to the prejudice of himſelf, but continued entire as formerly, and declared all ſuch deeds if any were, to be void, null, and of no force, ſtrength or effect, in

themſelves, ſicklike in the ſame manner, and as fully and freely in all reſpects, and to all intents and purpoſes, as if the ſame had never been made, granted, and ſubſcribed: and willing and proteſting, that the ſaid letter of interdiction and obligation above-ſpecified, might be duly publiſhed, and that in moſt due and competent form, as the ſame of the date foreſaid, inſert and regiſtrate in the books of Council and Seſſion, and a decreet of the Lords thereof interponed thereto, upon the day of alſo laſt bypaſt, ſhown to the ſaid Lords has teſtified. Notwithſtanding whereof, the ſaid T. W. through the facility and weakneſs of his nature, judgement, and underſtanding, is led away by evil company, who not only debauch him as to his perſon, and by their converſe, expoſe him to great, vaſt, extraordinary, ſuperfluous and unneceſſary expences, by night and day; but alſo as the ſaid complainers are informed, he intends to ſell, annalzie, wadſet, diſpone, reſign, renounce, dilapidate, and put away, all and ſundry his lands, heritages, tenants, annualrents, mills, woods, fiſhings, tacks, ſteadings, rooms, poſſeſſions, heritable bonds, appriſings, adjudications, reverſions, legal and conventional tacks and rights of teinds and prorogations thereof, and others pertaining and belonging to him, and whereunto he may ſucceed as heir to, or otherways having right to his ſaid deceaſed father, and to make private and public alienations, diſpoſitions, wadſets, aſſignations, reſignations, renunciations, and other rights and ſecurities thereof, to ſome perſon or perſons, and to contract and take on debts, and to grant bonds and other rights and ſecurities therefor, and to do ſeveral other facts and deeds, whereby the right of the ſaid lands and others foreſaid, may be appriſed, adjudged, or otherways evicted from him, in defraud, hurt and prejudice of himſelf, and contrary to the ſaid letters of interdiction, and entire truſt and confidence thereby, repoſed by him in the ſaid complainers their perſon, without remeid be provided thereto as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, inhibit and diſcharge the ſaid T. W. perſonally, or at his dwelling place, that he on no ways ſell, annalzie, wadſet, diſpone, reſign, renounce, dilapidate, nor put away any of his lands, heritages, annualrents, liferents, reverſions, mills, woods, fiſhings, tacks, ſteadings, rooms, poſſeſſions, or others foreſaid, pertaining and belonging to him, or whereunto he may ſucceed as heir to, or has right from his ſaid deceaſed father in manner foreſaid, nor make no private nor public alienations, diſpoſitions, wadſets, aſſignations, reſignations, renunciations, or other rights and ſecurities thereof, to no perſon or perſons, nor contract nor take on debt, nor grant no bond or other ſecurity therefor, nor do no other fact nor deed directly nor indirectly in any ſort, whereby the right of the ſaid lands and others foreſaid, may be any ways appriſed, adjudged, or otherways evicted from him in any ſort, in defraud, hurt and prejudice of the ſaid T. W. himſelf, or of the ſaid complainers to whom he has interdicted and obliged himſelf as ſaid is, anent the implement and fulfilling to them of the ſaid letter of interdiction and obligation aforeſaid, made by him to them in manner, for the cauſes and upon the conſiderations above, and therein particularly expreſſed. And ſicklike, that ye in our name and

authority

authority foresaid, pass to the market-cross of and other places needful, and there, after three several oyesses, open proclamation and public reading of thir our letters thereat, and thereupon make due and lawful publication of the said letter of interdiction and obligation foresaid therein contained, to all and sundry our lieges, and others whom it effeirs, inhibiting and discharging them, that they on no ways presume, nor take upon hand under whatsoever colour or pretext, to buy, block, take, or receive in wadset-mail, mail-free, or otherways from the said T. W. any of his lands, heritages, annualrents, liferents, reversions, or others foresaid, pertaining and belonging to him, or whereunto he may succeed as heir to, or has right from his said deceased father in manner foresaid; nor receive from him any alienations, dispositions, wadsets, assignations, resignations, renunciations, or other rights or securities thereof; nor lend to him any sums of money, or receive from him any bonds, obligations, or other rights or securities therefor: with certification to them if they fail, the same shall be null, and of no avail, force, strength nor effect, with all that has followed, or may follow thereupon; and shall make no faith in judgement, nor outwith the same in time coming; and that ye cause registrate thir our letters, with the executions thereof, within forty days, conform to the act of parliament, according to justice, because the Lords have seen, (here take in the becausе on the back of the bill, and then say) as ye will answer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, I have never seen arrestment in such letters, and yet I know no reason, but it might be; for a person interdicted may have moveable bonds and debts, plenishing, ready money, and the like; against which, (albeit considerable and of a great value, yea surmounting the real interest) inhibitions upon interdictions, cannot militate or operate; but since I have not seen them practised, I will not meddle with novelties; nor doubt I but the Lords in justice (and upon application) would grant such.

HORNING *and Poinding upon an Act of the Lords, modifying a certain Sum to a Pursuer, in a Process* pendente lite.

GEORGE, *&c.* to messengers, *&c.* greeting: Forasmuchas, our Lords of Council and Session, by their act of the date the day of last bypast, making mention, that A. B. of by his supplication tendered to them, represented, that his estate being appriſed and adjudged at the instance of C. D. of and W. M. of his creditors, for debts he owed them, and they having, by virtue of their appriſings and adjudications, and infeftments following thereupon, and decreets of mails and duties obtained accordingly against his tenants, entered to the actual possession, they by their intromissions, they either had or should have had, having debarred the said A. B. from managing of his estate, and intromitting with the rents and casualties thereof these several years bygone) are more than satisfied of the just sums due to them, or which in law they may acclaim, and the legal not yet expressed, and yet refuse

to

to adjuſt matters with him in a friendly way, whereupon the ſaid A. B. was neceſſitate to commence an action of count and reckoning againſt them before the ſaid Lords, in the month of years, and which has been depending all this time, and now after probation led as to the rents and caſualties, the matter lies at *aviſandum*, and muſt bide the courſe of the roll; and in reſpect the probation is clear, and that his ſaid creditors will be found more than ſatisfied, and that upon a former ſupplication, the Lords ſequeſtrate the rents, and appointed T. H. to be factor, and accountable to thoſe found to have right *in eventu*, and that now the petitioner's circumſtances are ſuch, having lien ſo long out of his eſtate, that he has no ſubſiſtence for himſelf or family, beſides money wherewith to attend and proſecute the ſaid count and reckoning, and have a period put thereto, and therefore humbly craving, that the ſaid Lords would modify an aliment for him until the event of the ſaid plea, and to ordain the ſaid factor to pay the ſame: Which petition being taken into conſideration by the ſaid Lords, and having heard both parties thereanent, they have modified to the petitioner the ſum of Scots money yearly, during the ſaid ſpace, and ordained the ſaid factor to pay the ſame each ſix months, whereof the one half for the firſt ſix months to be paid within days, and ſo forth thereafter during the ſpace above mentioned, as the ſaid act of the date aforeſaid, ordaining thir our letters to be direct thereupon, at the inſtance of the ſaid A. B. againſt the ſaid factor, in manner, and to the effect after ſpecified, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid T. H, perſonally, or at his dwelling-place, to make payment to the ſaid A. B. of the ſum of for the firſt ſix months, whereof the day of payment is already come and bygone, and to make payment of the like ſum each ſix months in time coming, during the ſpace above ſpecified, the day of payment of the ſame being firſt come and gone, after the form and tenor of the ſaid act, in all points, within fifteen days next after the charge, under the pain of rebellion, and putting of him to our horn, after this follow forth the ſtile of an ordinary horning, but without poinding, and then ſay, according to juſtice as ye will anſwer, *&c.* and let the date of the act be the date of the letters, and conclude with

Per actum Dominorum Concilii.

Nota, The reaſon why poinding is not inſert is, the factor is not conveened, and he may be exhauſted before the charge, and poinding in that caſe is ſummary execution.

LETTERS *of Horning and Poinding at an apparent Heir's Inſtance againſt the Liferentrix for Payment of the Aliment, determined to him by the Lords.*

GEORGE, *&c.* to meſſengers, *&c.* greeting: Forasmuchas A. B. eldeſt lawful ſon and apparent heir to the deceaſed J. B. of by his ſupplication, tendered to our Lords of Council and Seſſion, repreſented to them, that

that as he was apparent heir, ſo he had no benefit, yea, not ſubſiſtence of his father's eſtate, liferents of G. D. his mother, and of S. S. his grandmother, with the annualrents of the debts due thereupon, and public burdens conſidered, in ſo far as the eſtate conſiſted only of victual rent, and money rent, whereof the mother liferented of the ſaid victual rent, and of the ſaid money rent, and the grandmother liferented of the victual rent, and of the money rent, and the debts being the annualrents thereof amount to yearly, ſo that the eſtate is exhauſted, except as to chalders, which being ſold according to the fiars of the years in the ſhire of where the ſaid eſtate lies, there remains no more but of free rent, which is exhauſted yearly by public burdens, and therefore, conform to the laws and practice of the kingdom, and of God and nature, craving an aliment of the ſaid liferenters, according to his degree and quality; and the ſaid petition being taken to conſideration by the ſaid Lords, they, after hearing of parties and their procurators, by their act of the date of thir preſents, modified and appointed an aliment of victual and money rent yearly to the ſaid ſupplicant, whereof victual, and money by the mother, and victual, and money by the grandmother, yearly in time coming, during their reſpective lifetimes, beginning the firſt year's payment of the ſaid victual rent, according to the quality thereof, payable forth of the ſaid eſtate, being two part bear, and a third part oat-meal, between Yule and Candlemas next for this inſtant crop, and the firſt year's payment of the ſaid money rent at the term of next to come, alſo for this inſtant crop and year, and ſo forth yearly thereafter during their reſpective lifetimes; and decerned and ordained the ſaid G. D. the mother, and the ſaid S. S. the grandmother, to make payment thereof to the ſaid A. B. accordingly as the ſaid act of the date foreſaid, ordaining thir our letters to be direct thereupon, in manner after ſpecified, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid G. D. the mother, and S. S. the grandmother perſonally, or at their dwelling-places, to make payment to the ſaid A. B. apparent heir foreſaid, of the ſaid victual of the quality above ſpecified, and money rent above mentioned, yearly in time coming, during their ſaid reſpective lifetimes, the terms of payment of the ſame being firſt come and bygone, after the form and tenor of the ſaid act, in all points, within fifteen days next after they be charged by you thereto, under the pain of rebellion, and putting of them to our horn, after this follow forth the ſtile of an ordinary horning and poinding, only when ye come to theſe words after the poinding, *viz.* to the avail and quantity, ſay, of the ſaid liquidate ſums, and then ſay, according to juſtice as ye will anſwer, *&c.* and let the date of the act be the date of the letters, and conclude with

Per actum Dominorum Concilii.

Nota, Seldom comes in before the Lords aliments of this kind ſummarily, without it be acceſſary to a proceſs commenced by the liferenters themſelves, or by the apparent heir, and ye will find amongſt the ſummonſes, a ſummons of aliment at the inſtance of

of the apparent heir, againſt the liferenters, upon the grounds aforeſaid, and the Lords determine therein as they find juſt, and upon this decreet horning and poinding may be raiſed *mutatis mutandis*.

Nota, The ſecret council at times, but ſeldom, modify and determine aliments to minors and apparent heirs, and at times give aliments to ladies and gentlewomen, who have improvident huſbands, and probably cannot live in wedlock with ſafety, upon which acts or decreets of council, which always proceed upon citations, the council clerks write letters, but whatever is done by the Lords of Seſſion paſs the ſignet, and writers thereto are only privileged to write letters thereon.

Nota, At times when any eſtate is involved in debt, and in effect inſuperable, yea, when the very huſband is alive, and eſpecially when the huſband is fiar, and the father who involved the ſon is alſo alive, the wife of the fiar gets an aliment from the Lords, having brought a conſiderable portion with her, even albeit the creditors oppoſe it, and upon this act of the Lords letters paſs the ſignet.

Nota, Where lands fall ward to his majeſty, or any other baron within this realm, ſpiritual or temporal, or lands given in conjunct infeftment or liferent, as well to burgh as to land, the ſheriff of the ſhire or bailies, may take ſecurity of them, not to waſte or deſtroy their biggings, orchards, woods, ſtanks, parks, meadows or dove-coats, but that they hold them in ſicklike kind as they are the time they get and receive the ſame, King James IV. parl. 3. chap. 25. And which the ſheriffs or bailies uſually do perform, but ſhould they refuſe, letters may be raiſed againſt them for that effect, with certification horning will be direct, and I have ſeen them but ſeldom.

Nota, Letters of caption may follow on the former hornings, as well as in other hornings, which being eaſy are omitted.

LETTERS *of Sequeſtration of Corns growing in new Improvement or Cultivation of a Piece Commonty by a neighbour Heritor, to the Prejudice of the other Heritors.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us, by A. B. of that where the ſaid complainer ſtands heritably infeft and ſeized in all and haill the lands with houſes, biggings, yards, moſſes, muirs, marſhes, meadows, graſs and paſturages, out-ſets, in-ſets, commonties, parts, pendicles, and univerſal pertinents thereof, lying within the pariſh of and ſheriffdom of (as the inſtrument of ſeiſin granted to him thereupon the day of years, duly regiſtrate conform to the act of parliament, ſhown to our Lords of Council and Seſſion has teſtified, notwithſtanding whereof, and of his poſſeſſion of (as the undoubted commonty of the ſaid lands) by paſturing and herding of his cattle and goods thereupon, caſting, winning, leading, and away taking fuel, foggage, feal and divot forth thereof, and doing and performing all other deeds of commonty (of the law requiſite and neceſſary) within the ſaid bounds, C. D. of next adjacent heritor, has within thir months (at his own hand, and but any order of law) not only incloſed a great part of the ſaid commonty, but alſo has riven in, and brought the ſame to the perfection of arable land, and in effect ſown corns thereon, and in due time reſolves to ſhear, ſtouck, ſtack, lead and away take the ſaid corns, and diſpoſe thereupon,

thereupon, thereby not only debarring and excluding the complainer from ſo much of his commonty, but alſo to inhance the ſame to himſelf in property for ever, to the complainer's great hurt and prejudice, without remeid be provided thereto, as is alledged. Our will is herefore, and we charge you ſtraitly, and command, that incontinent, thir our letters ſeen, ye paſs, and in our name and authority, ſhear, ſtouck, and ſtack the ſaid corns, and ſequeſtrate the ſame upon the very ground, lately riven in and incloſed, and where they grow, there to remain ſo ſtaked, ay and while the point of right as to the ſaid ground, and to whom the ſame belongs, be firſt tried and decided by our ſaid Lords of Council and Seſſion, according to juſtice, ſo being the ſame be the firſt year, becauſe the Lords have ſeen the ſeiſin above written, as ye will anſwer to us thereupon, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Such letters were in uſe, but Alexander Leſly writer to his Majeſty's ſignet (a man abundantly qualified in his ſtation) having written ſuch letters, and being put in execution, the perſon (whoſe corns were ſequeſtrate) petitioned the Lords, and therein complained of the writer, and repreſented, that ſuch were in deſuitude, and craved no leſs than redreſs and depoſition; and this petition being ſeen by Mr Leſly, his difficulty was to make it appear that ſuch were in uſe within preſcription, albeit a ſtile of theſe was within his own book, whereupon I fortunately had by me one of theſe letters, ſubſcribed by John Gilmor writer to the ſignet, and written by Mr John Gilmor his ſon, (afterwards Sir John Gilmor, and then preſident) and three or four months within preſcription, which being produced before the Lords, Alexander Leſly was aſſoilzied, and I only ſet them down to make appear they were, but not to be practiſed, ſince the ſubject matter falls under the cognizance of the ſheriff, by way of cognition, by virtue of letters from the Lords, (whereof there is a ſtile ſet down) or by way of declarator of property and commonty, before the Lords themſelves, whereof alſo there is a ſtile to be found amongſt the ſummonſes.

Obſerve, that all letters before the Lord Juſtice General, Lords of juſticiary, and letters upon acts of the treaſury and exchequer (yea ſummons of treaſon before the parliament, when purſued there) and reductions of forefaulters, or other ſentences of parliament, paſs the ſignet, and writers to the ſignet ſubſcribe them, albeit they be conſulted, and written to their hand, except as to the ſtile.

Nota, There be incidents (commonly called incident diligence) upon acts of litiſcontеſtation before the Lords, for exhibition of writs founded upon by the purſuer or defender, as a point found relevant which paſs the ſignet, but ſince clerks of ſeſſion write them for the moſt part, albeit writers to the ſignet ſubſcribe them, I omit ſuch.

ADVOCATION *(even of a Point of Neighbourhood) from the Dean of Guild of Edinburgh to the Lords, where the ſubject matter contraverted was in the Canongate, holden of the Good Town of Edinburgh Feu, but not of the King Burgage.*

GEORGE, *&c.* to meſſengers, *&c.* meant and ſhown to us by D. H. of ; that where the deacon and box-maſter of the ſhoemakers of the Canongate (for themſelves, and as repreſenting their fraternity) have, upon

their pretended manner, called and conveened the complainer before the dean of guild of Edinburgh, and his council, to have jedge any warrant for pulling down not only an old houſe belonging to the ſaid ſhoemakers, adjacent to a tenement of land belonging heritably to the complainer, and for rebuilding the ſame, but alſo to have the liberty to affix, and put in chimneys in the gavel of the complainer's tenement, pretending the ſame to be a common gavel betwixt both, and wherein the ſaid dean of guild and his council intend to proceed, and pronounce decreet and ſentence condemnator againſt him, and to allow to the ſaid ſhoemakers, the purſuers, a privilege of the ſaid gavel, either by pulling down the ſame, or affixing chimneys therein on their own ſide, albeit the ſaid dean of guild and his council be no ways judges competent in the ſaid matter, for the reaſons and cauſes following. In the *firſt*, Becauſe by the laws and acts of parliament of this kingdom (where the ſubject matter contraverted) dips and depends upon heritable rights and infeftments, our Lords of Council and Seſſion (and no inferior judges whatſomever) are only judges competent; but ſo it is, that the ſubject matter now contraverted conſiſts in property, in ſo far as the complainer and his authors and predeceſſors ſtand heritably infeft and ſeaſed in the ſaid tenement, to the weſt of the ſaid purſuers their tenement, holden of old of the barons of Broughton (and now of the good town) *cum muris et murenis*, by the ſpace of three hundred years, as the complainer's infeftments bearing theſe words *per expreſſum*, in the tenendas ſhown to the ſaid Lords have teſtified; and which words in good grammar import, with walls and gavels, the gavel being that which cements the ſide walls together, ſo that there is nothing more clear and apparent, than that the ſaid gavel appertains and belongs to him in property, and wherein the purſuers can have no communication or property. *Secondly*, The ſaid dean of guild and his council proceed in the ſaid matter upon a great miſtake, not only in ſuſtaining themſelves judges competent, but alſo that the purſuers their having a catton clay chimney in the eaſt ſide of the ſaid gavel, not in the gavel itſelf, but leaning thereto, gives them a property in the gavel, whereas in pure law, and by the acts of parliament of this kingdom, (and even by the very conſtitution of that court) the privilege of the guildry cannot exceed (but is confined to) the burgage, but nowiſe can extend itſelf beyond the ſame, or to lands and marches outwith the ſame acquired by the good town, the rights and marches whereof can no more be diſcuſt, either by the town or guildry, than formerly by the barons of Broughton, *ab antiquo* ſuperiors; and which barons, albeit they had power to feu, and with ſuch and ſuch marches, as at the time were concerted, and eſtabliſhed by infeftments, yet once ſo eſtabliſhed, they were no more judges of thoſe infeftments and privileges and marches thereby given and conveyed to the acquirer of the feu, but ought to be decided by our ſaid Lords, as only judges competent and unſuſpect thereto, and if the barons, who originally gave out the feu, could not judge upon theſe feus, no more thoſe that came in vice by acquiſition of the ſuperiority, and *multo minos* the dean of guild and his council, who can have no pretence thereto, not being within the verge and compaſs of that called burgage as ſaid is; and as for that ſimple pretence of giving a propriety of the ſaid gavel to the purſuers, upon no other account, but becauſe they had a clay chimney joined to it on the caſt ſide, (yea,

were

were the ſaid dean of guild and his council judges competent, as they are not) the ſame were a rare paradox; for what if a nobleman or a gentleman ſhould build his caſtle, or manner-place upon the very edge, or confines of his march, to which the next adjacent neighbour, and upon his own land, ſhould build a little houſe, and join the ſame to the ſaid caſtle, would that give him ſuch a property in the wall of the caſtle to which his houſe leans, as to make chimneys and vents therein, is a thing that cannot be aſſerted, and were an act of moſt dangerous preparative, and *in auditum*, and ſo our Lords may evidently perceive how wrongouſly and unjuſtly the ſaid dean of guild and his council intend to proceed in the ſaid matter, and give forth ſentence therein, by all law, equity and reaſon, and therefore the foreſaid action and cauſe, ought and ſhould be advocate from the ſaid dean of guild and his council, and all other inferior judges to the ſaid Lords themſelves, as only judges competent and unſuſpect thereto in time coming, for the reaſons and cauſes foreſaid, and others as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn, and charge the ſaid dean of guild and his council, before whom the ſaid matter depends, and their clerk of court, and the ſaid deacon and box-maſter for themſelves, and as repreſenting their fraternity purſuers, for their intereſt perſonally, or at their dwelling-places, to compear, *&c.* after this follow forth the ſtile of the former advocation *uſque ad finem*, only the deliverance of the bill muſt rule the day of compearance, and the other day to which advocated, and the judge in the former, ye muſt call him dean of guild and his council; and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, (after debate) the Lords paſt the bill, and was expede the ſignet, and when it came in in courſe, the Lords (after a litigious debate) remitted the matter back to the dean of guild and his council, but with this caveat, to decide according to the parties rights, and infeftments, which clearly ſhew what the Lords intended, had they advocate the cauſe to themſelves, which the ſhoemakers perceiving, would not put it to the touch, but acquired the complainer's tenement, and ſo put the gavel out of queſtion, and now have of both tenements reared up a brave fabric and ſtructure, both pleaſant and profitable.

LETTERS *of Inhibition at the Inſtance of a Husband againſt his Wife, ſeldom uſed in this Kingdom, and when, in an extraordinary Caſe, and upon great Provocations.*

GEORGE, *&c.* to meſſengers, *&c.* meant and ſhown to us by our lovit, J. S. of A. That where the ſaid complainer was upon the day of years, lawfully married in face of the holy kirk, and in preſence of famous witneſſes, to A. S. relict of the deceaſed , and accordingly entered home to his family, and they cohabit together as huſband and wife for divers months, and he gave her the truſt and cuſtody of all within the houſe, and utenſils (and in effect what elſe belonged to him) hoping, without the leaſt doubt, ſuſpicion, or fear, that through the experience ſhe had in her firſt huſband's time,

and the entire confidence he repoſed in her as his lawful wife, and to whom ſhe was ſworn in wedlock, ſhe would improve all to the beſt for the good of both, and their family, but whether of herſelf, or by evil council, he knows not, ſhe, having ſhaken off all fear of God, and the natural affection ſhe owed the complainer her huſband, not only granted bonds for conſiderable ſums, without his knowledge or conſent, to divers perſons, thinking thereby his eſtate might be affected therewith, but when ſhe found, and was informed the ſame would not ſubſiſt in law, ſhe betook herſelf to a deſolate and idle kind of life, going up and down amongſt ſome of her friends and children of the firſt marriage, and other perſons of meaner quality, thereby deſerting his family and government thereof proper for a dutiful wife; yea, when in family with the complainer, imbazled, gave away, and diſpoſed of a great part of his inſight, and pleniſhing, and a part of his utenſils, and when abſent, gifted and diſpoſed upon the rents of the lands liferented by her by her contract of marriage with, and infeftment from her firſt huſband, and which belonged to the complainer *jure mariti*, and in effect has alſo diſpoſed upon his cows, ſheep, and other beaſtial he had a graſing remote from his reſidence, with their milkneſs, and other excreſcent profits; and not ſatisfied therewith, ſhe daily and continually contracts and takes on debts, abulziements, fiſh, fleſh, and ſeveral other things in great quantity, and to a great value, and that from all perſons with whom ſhe may have the leaſt favour or credit, either upon bond, ticket, ſubſcribed account, or promiſe of payment, as ſhe may beſt prevail with them, and all out of deſign to burden and affect the ſaid complainer and his fortune and eſtate therewith, and were it poſſible, and in her power to ruin both, to the complainer's great grief and diſatisfaction, who, as he received her at firſt, and after marriage home to his family as his lawful wife, ſo was willing to cheriſh and entertain her therein according to his power, and yet, and after many eſſays, cannot be prevailed with to return home, and be reclaimed from ſuch godleſs and unnatural acts, but intends to perſiſt and continue therein, to the ſaid complainer his great hurt and prejudice, without remeid be provided thereto, as is alledged. Our will is herefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, inhibit and diſcharge the ſaid A. S. ſpouſe to the ſaid complainer perſonally, or at her dwelling-place, that ſhe on no ways ſell, annalzie give in pledge or gift, diſpone, dilapidate, nor put away any of the ſaid complainer, her huſband's goods, gear, ſums of money, corns, cattle, inſight, pleniſhing, abulziements, nor others pertaining and belonging to him or her, either within or without his dwelling-houſe, nor contract any debts with any perſon or perſons whatſoever, by bond, ticket, account, promiſe of payment, or otherways, to the hurt and prejudice of the ſaid complainer, her huſband, or whereby his perſon, lands or eſtate, real or perſonal, may be any ways troubled, diſtreſſed, affected or evicted in any ſort; and ſicklike, that ye, in our name and authority foreſaid, inhibit and diſcharge all and ſundry our lieges, and others whom it effeirs, by open proclamation at the market-croſs of and other places needful, that they nor none of them, directly nor indirectly, preſume, or take upon

upon hand, under whatſoever colour or pretext, to buy, block, take, or receive in pledge, gift for money, or otherways from the ſaid A. S. ſpouſe to the ſaid complainer, any goods, gear, corns, cattle, infight, pleniſhing, abulziements, or others whatſoever pertaining to her or to the ſaid complainer her huſband, either within or outwith his dwelling-houſe, nor yet to give or advance to her ſums of money, abulziements, goods, gear, or other furniſhing whatſoever, upon bond, pledge, credit, or otherways in time coming, without the ſaid complainer his ſpecial knowledge, advice, licence and conſent firſt had and obtained thereto, certifying all them that do in the contrary, that all ſuch buying, blocking, gifting or impignorating, and all bonds and other ſecurity to be granted therefore, ſhall be null and of none avail, force, ſtrength nor effect, with all that has followed or may follow thereupon, and ſhall make no faith in judgement, nor outwith the ſame in time coming; and that the ſaid complainer ſhall have good action, right, and intereſt to claim and repeit from them, all his goods and gear, which ſhall be bought or received by them from his ſaid ſpouſe, or by her gifted to them, and that he ſhall be free, and no ways obliged in payment to them of any ſums of money, or any other goods and gear which ſhall be furniſhed by them to her in time coming, and that ye cauſe regiſtrate thir our letters, with the executions thereof within forty days, conform to the act of parliament, according to juſtice, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, There was horning and poinding for commiſſioners fees, whether in parliament or in convention of eſtates (I mean for ſhires) at five pound *per diem*, beſides the like ſum for ſo many days coming and going, according to the diſtance of place: and theſe letters are founded upon the act of parliament, and a teſtificate from my Lord regiſter of the day of the ſitting, and day of adjourning or diſſolving, and that ſuch a perſon ſerved therein as commiſſioner for ſuch a ſhire, but ſeeing, by a ſubſequent act of parliament, the like diſtriction may be uſed for thoſe fees, as for the King's revenues, and at the ſight of the commiſſioners of the ſhire, few raiſe them, and yet he may find them in the cloſe of this part of the work.

ADVOCATION *at the Inſtance of a Donatar to a Baſtardie and* ultimus hæres, *againſt a Perſon craving to be ſerved Heir to the Baſtard, thereby to preclude the Donatar.*

GEORGE, *&c.* to A. B. of meſſengers, *&c.* meaned and ſhown to us by donatar to the baſtardie, or *ultimus hæres* of the deceaſed J. W. indweller in ; that where G. W. indweller there, as brother-in-law (on the mother ſide) to umquhile P. W. father to the defunct, hath purchaſed and raiſed brieves forth of our chancellary, direct to the magiſtrates of , for ſerving and cognoſcing him, neareſt and lawful heir to the ſaid

ſaid deceaſed J. W. alledging that he is within degrees of blood to him *ex parte matris*, and which brieves he hath cauſed to be proclaimed at the market croſs of , to be ſerved before the ſaid magiſtrates upon the day of in the hour of cauſe: in the which ſervice, the ſaid magiſtrates intend to proceed, receive probation by witneſs as to the propinquity of blood; and *de facto*, by virtue of their precept or warrant, have cauſed ſummons the ſaid witneſs, and an inqueſt to paſs thereupon, and to cognoſce and determine therein, by ſerving the ſaid G. W. heir to the ſaid defunct, and retouring the ſame to our chancellory accordingly, and that moſt wrongouſly and unjuſtly. Conſidering it is of verity, that the matter in hands dipping upon property, your Lordſhips (and no inferior judges) are only judges competent, and unſuſpected thereto, by act of parliament, laudable laws and conſtitutions, and practice of this kingdom, heretofore inviolably obſerved. And as the ſaid G. W. pretends to be neareſt heir, and within degrees of blood to the defunct, and conſequently by his pretended ſervice, retour, precepts and infeftments to follow thereupon, would claim right to the property of all his lands and heritages; ſo the ſaid complainer has right thereto, by virtue of our gifts dated the day of laſt bypaſt, as falling in our hands, and at our royal gift and diſpoſition by reaſon of baſtardy, or *ultimus hæres*, laws and practice of this kingdom, and inherent privilege of our crown, through and by the ſaid J. W. his being born baſtard, deceaſing baſtard, without heirs lawfully begotten of his own body, or diſpoſition made by him thereof in *liege pouſtie*, or by reaſon of *ultimus hæres*, and no other perſon or perſons of the law, allowed to ſucceed to him within degree. Likeas the ſaid complainer having purſued a declarator of the ſaid gift before our Lords of Council and Seſſion, there was compearance made for the ſaid G. W. and certain other pretenders, and likewiſe for the defunct's debtors. And amongſt other defences proponed by them, it was alledged, that the defunct was noways baſtard, but begot in *legitimo thoro*, which they offered to prove *pro ut de jure*; and likewiſe, that there were perſons within degrees of blood, who would exclude *ultimus hæres*, whereupon our ſaid Lords ordained the defenders to give in a condeſcendence to the clerk of the proceſs, of the name and deſignation of the pretended apparent heir, and of his relation and propinquity of blood to the defunct, betwixt and the day of inſtant, as the ſaid gift, ſummons of declarator, with the executions thereof, together with the minutes of debate, and interlocutor made therein, ſhown to the ſaid Lords have teſtified. And ſicklike, the defenders having given in a condeſcendence in thir terms, viz. the name and deſignation G. W. indweller in , whoſe father being , was brother-in-law to P. W. father to the ſaid defunct, as being born of one mother, to wit B. M. who had to her firſt huſband , grandfather to the perſon condeſcended upon; and to her ſecond huſband the ſaid P. W. father to the defunct, as the ſaid condeſcendence, alſo produced to our ſaid Lords, has teſtified. By all which it may be moſt clear and apparent to our ſaid Lords, that the relation condeſcended upon is on the mother's ſide; and by the law of this kingdom, there can be no ſucceſſion on the mother's

mother's ſide, as to any heritage or eſtate belonging to the huſband, without he had had made her fiar, which cannot be alledged, and any propinquity in this caſe, or relation pretended, is *ex parte matris*: in ſo far as the ſaid B. M. had two huſbands as ſaid is; and betwixt her and the ſecond, was procreate the ſaid defunct; and he dying without heirs, the heirs of the ſecond marriage failzieing, any ſuch ſucceſſion can have no place; and it were rare, that the ſons of the firſt marriage ſhould ſucceed to the ſecond huſband, without upon a more ſpecific head than that now pretended, and would alter the whole courſe of ſucceſſion, and, in effect, fruſtrate and defraud us and our donators, of our caſualties diſponed to the ſaid donators, and is the deſign now intended. And this being a principle in our law, wherein inferior judges are not well ſeen or verſed, they ought not to proceed or cognoſce therein, and were of moſt dangerous conſequences; and therefore the ſaid brieves and ſervice, proceſs and minutes made therein, and whole procedure thereof, ought to be advocate from the ſaid magiſtrates of and all other inferior judges to the four ordinary macers, before our Lords of Council and Seſſion, or any two of them, as judges in that part: and becauſe of difficulty, aſſeſſors are granted to them by the ſaid Lords in the matter in manner underwritten: and the ſaid magiſtrates of and all other inferior judges ought and ſhould be diſcharged from all further proceeding thereintill in time coming, for the reaſons and cauſes foreſaid, and others as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn and charge the ſaid G. W. at whoſe inſtance the ſaid brieves are raiſed, and the ſaid magiſtrates of to whom the ſame are directed, and their clerk of court, and likewiſe the witneſs and inqueſt ſummoned to depone therein, and paſs thereupon, perſonally, or at their dwelling-places, to compear before the ſaid Lords, and the ſaid four macers, or any two of them conjunctly, as judges in that part, at Edinburgh, or where it ſhall happen them to be for the time, the day of next to come, in the hour of cauſe, bringing with them the ſaid brieves, with the claim, acts of court, minutes and proceſs of the ſaid ſervice, and grounds and warrants whereupon the ſame proceeds, to be ſeen and conſidered by our ſaid macers; and to hear and ſee the ſame advocate from the ſaid magiſtrates of and all other inferior judges within this realm, to the ſaid macers, as only judges competent to cognoſce therein, for the reaſons foreſaid. Attour, we and our ſaid Lords in our name, hereby advocate the foreſaid ſervice, proceſs thereof, and procedure therein, from the ſaid magiſtrates of and from all other inferior judges within this realm, to our ſaid macers, or any two of them as ſaid is: diſcharging hereby the ſaid magiſtrates, and all other inferior judges within this kingdom, from all further proceeding or cognoſcing, and determination in the ſaid ſervice, and of their offices in that part in the mean time, while the day of the ſaid month for the reaſons foreſaid. Likeas, we and the ſaid Lords, in reſpect ſome difficulties may ariſe in the matter, after report made by the Lord Ordinary *in preſentia*, have appointed the Lords (two of their own number) to be aſſeſſors to our ſaid macers in the ſervice above-mentioned, to the effect above-expreſſed, according to juſtice as ye will anſwer

ſwer, *&c.* Given under our ſignet at Edinburgh, the day of and of our reign the year, one thouſand and years. Let the date of the bill be the date of the letters, and then conclude with

Ex deliberatione Dominorum Concilii.

ADVOCATION *at the Inſtance of a Perſon, who judges himſelf to be neareſt Heir to the Defunct, againſt another Perſon pretending to be Heir.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by A. B. fourth lawful ſon to the deceaſed G. B. of and immediate elder brother to the deceaſed W. B. of youngeſt lawful ſon to the ſaid deceaſed G. B. that where J. B. now of eldeſt lawful ſon to the ſaid deceaſed G. B. of and eldeſt brother to the ſaid deceaſed W. B. of has, upon his pretended manner, raiſed brieves forth of our chancellary, for ſerving him neareſt and lawful heir to the ſaid deceaſed W. B. his youngeſt brother, in all lands, heritages, tenements, annualrents, and others wherein the ſaid W. B. died laſt veſt and ſeized as of fee, at faith and peace; and which brieves are direct to the ſheriff of who, or his deputes, intend to proceed in the ſaid ſervice; and in order thereto, have cauſed the ſaid brieves to be proclaimed, cited witneſſes to prove the propinquity of blood, and likewiſe ſummoned an inqueſt to paſs thereupon: and in effect, by the ſaid inqueſt, intend to have the ſaid J. B. now of ſerved and cognoſced neareſt and lawful heir to the ſaid deceaſed W. B. his youngeſt brother, and to retour the ſame accordingly to our chancellary, that thereupon precepts may be direct forth thereof under our quarter ſeal, to the ſaid ſheriff, and the ſaid J. B. by him or his deputes, infeft in the ſaid lands, and others foreſaid, albeit they be no ways judges competent therein, but ought and ſhould be advocate from them, and all other inferior judges within this realm, to the four ordinary macers before our Lords of Council and Seſſion, or any two of them conjunctly, as ſheriffs in that part of the ſaid ſheriffdom, and as only judges competent; and in caſe of difficulty, aſſeſſors appointed to them by our ſaid Lords of Council and Seſſion in manner under-written. And therefore, the foreſaid brieves and ſervice, and haill procedure therein, ought and ſhould be advocate from the ſaid ſheriff and his deputes, to the ſaid macers, or any two of them as ſaid is, and aſſeſſors given to them for their more legal adminiſtration therein; and the ſaid ſheriff and his deputes, and all other inferior judges, diſcharged from all further proceeding, cognoſcing, or determination therein in time coming, for the reaſons and cauſes following. In the *firſt*, becauſe the ſaid ſheriff and his deputes may prove partial, not being known or verſed in points of ſucceſſion; and the right of property and diſcuſſing thereof, is only proper to be decided by the ſaid Lords, and the point of ſucceſſion, when the ſame is debateable as to the propinquity of blood,

blood, by ſervice before the macers, to whom the Lords, in ſuch caſes, appoint aſſeſſors, and thereby expert lawyers heard to debate before them; and of which benefit the ſubjects are fruſtrate and deprived in the country, when ſervices are led before inferior judges. *Secondly*, The matter ought to be advocate as ſaid is; becauſe the point now in hand is, whether the eldeſt brother is the perſon to ſucceed, or the complainer, who juſtly contends, that he being the immediate elder brother of the defunct, and the ſubject matter contraverted being conqueſt, he, as immediate elder brother, and not the ſaid J. B. the eldeſt, ought to ſucceed; *nam de jure conqueſtus gradatim aſcendit*, and that the defunct's eſtate was conqueſt by him in his own time, is beyond all queſtion and peradventure; and thereby nothing more evident to the ſaid Lords, than a clear ground of advocation; and the truth of the reaſon upon which craved, will appear, by the very rights and inſeftments of the eſtate acquired, when produced before the ſaid macers and their aſſeſſors; and ſo our ſaid Lords of Council and Seſſion may evidently perceive how wrongouſly and unjuſtly the ſaid ſheriff and his deputes, intend to proceed in the ſaid ſervice, in manner, and to the effect aforeſaid, by all law, equity and reaſon; and therefore the foreſaid brieves and ſervice, and all further procedure therein, ought and ſhould be advocate from the ſaid ſheriff and his deputes, and all other inferior judges to the ſaid four ordinary macers, or any two of them conjunctly, as ſheriffs in that part of the ſaid ſheriffdom of and aſſeſſors appointed to them in caſe of difficulty in the ſaid matter: and the ſaid ſheriff, and all other inferior judges and their deputes, diſcharged from all further proceeding or cognoſcing therein in time coming, for the reaſons and cauſes foreſaid, and others as is alledged. Our will is herefore, and we charge you, that ye lawfully ſummon, warn and charge the ſaid J. B. now of raiſer and procurer of the ſaid brieves, and the ſaid ſheriff to whom direct, and his deputes and clerk of court, and the witneſs cited to prove the propinquity of blood, and the perſons of inqueſt ſummoned, to paſs upon the ſaid ſervice, perſonally, or at their dwelling-places, to compear before our ſaid Lords of Council and Seſſion, and their ſaid macers, the day of next to come, in the hour of cauſe, bringing with them the ſaid brieves, with the executions thereof, claim, acts of court, and minutes of proceſs made therein, and haill grounds and warrants whereupon the ſame proceeded, to be ſeen and conſidered by the ſaid Lords and macers, and to hear and ſee the ſame advocate from the ſaid ſheriff and his deputes, and all other inferior judges within this kingdom, to our ſaid macers as only judges competent to cognoſce therein, for the reaſons aforeſaid and others. Attour we, and our ſaid Lords in our name, have advocate, and hereby advocate the foreſaid brieves, ſerving thereof and retouring of the ſame to our chancellary, from the ſaid ſheriff of and his deputes, and from all other inferior judges within this realm, to our ſaid macers, or any two of them conjunctly, as ſheriffs in that part of the ſaid ſheriffdom, and only judges competent and unſuſpect thereto: Diſcharging hereby the ſaid ſheriff and his deputes, and all other inferior judges within this kingdom, from all further proceeding, cognoſcing, or giving any determination as to the ſaid brieves, and ſerving thereof, or retouring of the ſame,

and of their offices in that part in the mean time, which the day of the ſame month that the verity be known, for the reaſons and cauſes aforeſaid; and becauſe of the report made by the Lord Ordinary *in preſentia*. In relation to the ſaid matter, we and our ſaid Lords, hereby appoint the Lords (two of the ſaid Lords their number) to be aſſeſſors to the ſaid macers in the ſervice above ſpecified, to the effect above mentioned, according to juſtice as ye will anſwer, *&c.* given under our ſignet at Edinburgh, the day of and of our reign the year, 17 and conclude with

Ex deliberatione Dominorum Concilii.

Nota, The king grants letters of diſpenſation under the ſignet, to an apparent heir that is minor, to ſerve inward lands, whether ſimple or taxed, and proceeds upon a ſignature of diſpenſation paſſed in exchequer; which ſignature is in favour of another perſon than this; and to enter heir to father and grandfather, and is here omitted: but you will find it amongſt the other ſignatures, and by the *index* will be directed thereto, and I have here only placed the letters following.

LITERÆ *Diſpenſationis pro Hærede, minoris ætatis, in Terris, per ſervitium Wardæ et Relivii tentis deſerviendo.*

GEORGIUS, *&c.* omnibus judicibus noſtris quorum intereſt, ſalutem ſciatis nos, cum aviſamento et conſenſu fideliſſimorum, et dilectiſſimorum noſtrorum conſanguineorum et conciliariorum, G. C. de A. antiqui regni noſtri, Scotiæ ſummi cancellarii, *&c.* dominorum commiſſionariorum pro noſtro theſaurario, computorum noſtrorum rotulatorio, et theſaurario noſtrarum firmarum novarumque noſtrarum augmentationum. Nec non cum aviſamento et conſenſu reliquorum dominorum, aliorumque noſtri ſcaccarii, dicti regni noſtrorum commiſſionariorum dediſſe et conceſſiſſe, ſicuti tenore preſentium, damus et concedimus dilecto noſtro A. B. de plenam et amplam libertatem, warrantum, et diſpenſationem ſeipſum procurandi, debite deſervitum et retornatum, tanquam hæredem de mortuo C. B. ejus patri, in totis et integris terris de aliiſque mentionatis in infeofamentis. Nec non in omnibus aliis terris, aliiſque cum pertinentiis, in quibus dictus de morturus C. B. ejus pater, obiit ultimo veſtitus et ſaſitus, ut de fœdo ad fidem, et pacem noſtram; et de nobis per ſervitum wardæ, ſimplicis ſeu taxatæ tentis, et hoc non obſtante minoritate dicti, A. B. et quod dictæ terræ tenentur de nobis, per ſervitium wardæ et relivii. Noſque etiam cum conſenſu prædicto, diſpenſamus cum minoritate dicti A. B. et cum judicibus, coram quibus ipſum deſerviri contigerit, et perſonus qui erunt ſupra inqueſtum, et cum omnibus aliis membris curiæ, pro dicto ſervitio deducendo, et ſaſinæ dator, ſimili modo ac methodo, quam ſi dictus A. B. annos majoritatis attigiſſet. Quocirca, cumque omnibus aliis imperfectionibus et objectionibus contra dictum ſervitium, ob rationem ſupraſcriptam, objiciendis diſpenſavimus, tenoreque preſentium, cum conſenſu

conſenſu antedicto ſimiliter in perpetuum diſpenſamus. *Datum ſub ſigneto noſtro*, apud, &c.

Per ſignaturam ſigno manus, S. D. N. regis ſupra ſignatam manibuſque quorandam Dominorum, aliorumque ſui Theſaurarii et ſcaccarii ſubſcriptam.

HORNING *at a Cautioner's Inſtance againſt the Principal Debtor, upon the Clauſe of Relief, to relieve him of his Cautionry.*

GEORGE, *&c.* foraſmuchas, A. B. of as principal, and C. D. of as cautioner for him, by their bond dated the day of and years, for the cauſes therein ſpecified, bound and obliged them, conjunctly and ſeverally, their heirs, executors, and ſucceſſors, to have contented and paid to M. J. B. of his heirs and aſſignees, ſecluding executors, the ſum of Scots money of principal, with the annualrent thereof from as in the bond, to the term of payment under-written; and that between the date foreſaid of the ſaid bond, and the term of then next to come, but longer delay, with the ſum of money foreſaid of liquidate expences in caſe of failzie, and annualrent after the ſaid term, during the not-payment. Likeas the ſaid A. B. bound and obliged him and his foreſaids, to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid C. D. and his above-written, of his ſaid cautionry, and of all coſt, ſkaith, damage, intereſt, charges and expences they ſhould happen to ſuſtain or incur therethrough thereafter in time coming, as the ſaid obligation of the date foreſaid, containing the ſaid clauſe of relief, inſert and regiſtrate in our books of Council and Seſſion, and a decreet of our Lords thereof interponed thereto, upon the day and date of thir preſents; ordaining thir our letters to be direct thereupon, in manner under-written, at more length proports. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. principal debtor aforeſaid, perſonally, or at his dwelling-place, to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid C. D. and his foreſaids, of his ſaid cautionry, and of all coſt, ſkaith, damage, intereſt, charges and expences they have ſuſtained, or that he or his foreſaids ſhall happen to ſuſtain, or incur therethrough in time coming, after the form and tenor of the ſaid bond, clauſe of relief therein contained, and decreet interponed thereto in all points, within days, which is to be ruled by the bond, next after the charge, under the pain of rebellion, and putting of him to our horn, wherein if he fail, the ſaid . days being firſt come and bygone, that incontinent thereafter ye denounce him rebel, and put him to our horn, and eſcheat and inbring all his moveable goods and gear to our uſe, for his contemption and diſobedience; and alſo, that ye uſe the haill remanent order againſt him, preſcribed by our act of parliament made thereanent, according to juſtice as ye will anſwer, *&c.* Given under

our ſignet at Edinburgh, the day of and of our reign the year, 17 years.

Per decretum Dominorum Concilii.

Nota, The date of the regiſtration muſt be the date of the letters.

Nota, Some clauſes of relief are more extenſive, and conceived in thir terms, to relieve the cautioner and his, of the cautionry at the preciſe term in the bond, or at any other term or time thereafter: the cautioner at his pleaſure as well not diſtreſt as diſtreſſed, which indeed is the better way; for in that caſe, whether the creditor uſe diligence for his money or not, and probably out of favour to the principal debtor, the cautioner he may diſtreſs for his relief, and the circumſtances of the principal party may oblige him to it; and if the relief be ſo conceived, there is no place for a ſuſpenſion, upon the common reaſon, that the cautioner is not diſtreſſed: whereas, if the relief be not ſo conceived, the principal party may ſuſpend on that reaſon, and the charge will reſolve in a libel. And if the cautioner do not inſtruct a diſtreſs, the letters and charge will ſuſpend *ſimpliciter*, and the Lords may ordain the cautioner to pay expences, as being malicious.

Nota, No poinding, becauſe no liquidate ſum but to relieve *ut ſupra*.

CAPTION *on the former Horning.*

GEORGE, *&c.* to meſſengers, *&c.* meant and ſhown to us by C. D. of , that where upon the day of , A. B. of was orderly denounced rebel and put to our horn, by virtue of letters of horning, raiſed, uſed and execute againſt him, at the inſtance of the ſaid complainer, for not warranting, freeing, relieving, harmleſs and ſkaithleſs keeping the ſaid complainer, his heirs, executors, and ſucceſſors, of his cautionry for the ſaid A. B. in a bond granted by the ſaid A. B. as principal, and the ſaid complainer as cautioner for him, conjunctly and ſeverally, to Mr J. B. of , his heirs and aſſignees (ſecluding executors) for the ſum of Scots money of principal money foreſaid of expences, and annuals of the ſaid principal ſum, from to the term of , being the term of payment therein contained, and thereafter during the not-payment; and of all coſt, ſkaith, damage, intereſt, charges and expences the ſaid complainer has ſuſtained, or that he and his foreſaids ſhall happen to ſuſtain or incur through his ſaid cautionry, and that conform to the clauſe of relief contained in the ſaid bond conceived in favours of the ſaid complainer and his foreſaids, dated the ſaid bond the day of , and years, regiſtrate in our books of Council and Seſſion, the day of , as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament ſhown to our Lords of Council and Seſſion has teſtified. Under the proceſs of the which horn, the ſaid A. B. rebel foreſaid, has continually lain and abidden ſinſyne; and yet daily haunts, frequents, reſorts, and openly repairs to kirks, markets: here follow forth the ſtile of an ordinary caption

caption *usque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

SUSPENSION *on the said Charge and Diligence.*

GEORGE, *&c.* meant and shown to us by A. B. of , that where C. D. of , has upon his pretended manner raised other letters, and therewith caused charge the said complainer, to warrant, free, relieve, harmless, and skaithless keep him, his heirs, executors, and successors, of his cautionry for the complainer, in the sum of Scots money of principal, annualrents and expences, contained in a bond granted by the said complainer as principal, and the charger as cautioner for him, conjunctly and severally, to M. J. B. of , his heirs and assignees, secluding executors thereupon, of the date the day of years; and of all cost, skaith, damage, interest, charges and expences the said charger has sustained, or that he or his foresaids shall happen to sustain therethrough in time coming, conform to the clause of relief contained in the said bond, conceived in favours of the charger and his foresaids, dated the said bond the day of years, registrate in our books of Council and Session, the day of last by past, within a certain short space next after the charge, under the pain of rebellion, and putting the said complainer to the horn; and for alledged disobedience thereof, has denounced, at least intends to cause denounce him thereto, and that most wrongously and unjustly. Considering it is of verity, that the foresaid charge is most malicious, and not the least ground in law for it, there being no distress, and is only done to expose the complainer to unnecessary trouble and expence, in suspending and finding of caution, and will, at the discussing, resolve in a libel: and there being no distress previous to the charge, he will be liable to the complainer in all his expences, at the Lords of our Council and Session their modification. And so our said Lords of Council and Session may evidently perceive how wrongously and unjustly the said complainer is charged, in manner, and to the effect foresaid, by all law, equity and reason. Nevertheless, for obedience, the said complainer has instantly found sufficient caution (6) acted in our books of Council and Session to the effect above specified, in case it be found by our said Lords, after discussing hereof, that he ought to do the same; and therefore, the foresaid letters and charge, haill effect and execution thereof, ought and should be *simpliciter* suspended upon the said complainer in time coming, for the reasons and causes foresaid, and others, *&c.* as is alledged. Our will is herefore, and we charge you, that ye lawfully summon, warn and charge the said C. D. personally, or at his dwelling-place, to compear before our said Lords of Council and Session at Edinburgh, or where it shall happen them to be for the time, the day of , which the back of the bill of suspension must rule, in the hour of cause,

cauſe, with continuation of days, bringing with him the foreſaid pretended regiſtrate bond containing the ſaid clauſe, and obligement of relief, with all letters of horning and others raiſed thereupon, and executors thereof, to be ſeen and conſidered by the ſaid Lords, and to hear and ſee the ſame, haill effect and execution thereof, and proceſs of horning therein contained, *ſimpliciter* ſuſpended upon the ſaid complainer in time coming, for the reaſons and cauſes foreſaid, and others, *&c.* Attour, we and our ſaid Lords of Council and Seſſion in our name, have ſuſpended, and hereby ſuſpend the foreſaid letters and charge, haill effect and execution thereof, and proceſs of horning therein contained upon the ſaid complainer in time coming, for the reaſons and cauſes foreſaid and others, *&c.* diſcharging hereby all officers and meſſengers at arms, from all putting of the ſaid letters to any further execution againſt the ſaid complainer, and of their offices in that part, in the mean time while the day of , to be ruled by the back of the bill, that the verity be known, according to juſtice, becauſe J. V. of is become cautioner for the complainer, to the effect above-mentioned, as ye will anſwer to us thereupon, *&c.* let the date of the billbe the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, If the party be denounced, or incarcerate, there muſt be relaxation, and a charge to put at liberty in both bill and letters, and for which ye will find a ſtile.

Nota, The bond of cautionry (the ſtile whereof ye will find in the fifth part of the ſyſtem of ſtiles) muſt contain 20 merks for eſcheat-goods, and without which there can be no relaxation, and far leſs a charge to put at liberty, in either bill or letters.

HORNING *at the Inſtance of a Perſon bound principally with another in a Bond to the Creditor, againſt the ſaid other Perſon to relieve him of the Debt, conform to the Back-bond granted thereanent.*

GEORGE, *&c.* foraſmuchas A. B. of and C. D. of by their bond dated the day of and years, granted them to have borrowed and received from M. I. B. of the ſum of Scots money, which ſum, as principal, with the annualrents thereof from to the term of payment under-written, they bound and obliged them conjunctly and ſeverally, their heirs, executors, and ſucceſſors to have contented and paid to the ſaid M. I. B. his heirs and aſſignees, ſecluding executors, betwixt the date foreſaid of the ſaid bond, and the feaſt and term of , but longer delay, with the ſum of money foreſaid of liquidate expences in caſe of failzie, and annualrent after the ſaid term during the not-payment; likeas, the ſaid A. B. by his back-bond, of the date of the ſaid bond, and relative thereto; and ſubſuming that albeit the ſaid C. D. of became principal for and with him in the ſaid bond, for ſatisfying the ſaid M. J. B. in point of ſecurity, yet the truth

truth was, the ſaid A. B. got and received the whole money, and no part applied for the uſe and behoof of the ſaid C. D. And therefore the ſaid A. B. faithfully bound and obliged him and his foreſaids to ſatisfy and pay the ſaid debt, principal, annualrents and expences to the ſaid M. J. B. and his foreſaids, at the ſaid term, and to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid C. D. and his foreſaids, of his ſaid engagement for, and with the ſaid A. B. in the ſaid bond, and from all payment of the ſaid ſums or any part or portion thereof, and of all coſt, ſkaith, damage, intereſt, charges and expences, the ſaid C. D. or his foreſaids ſhould happen to ſuſtain, or incur by, or through the ſaid engagement directly or indirectly, by whatſoever manner of way thereafter in time coming, and for that effect to retire the ſaid bond unregiſtrate, or a ſufficient diſcharge thereof, to the ſaid C. D. and his foreſaids at the ſaid term, and that under the pain of money above-written, to be paid by the ſaid A. B. and his foreſaids to the ſaid C. D. and his foreſaids, in name of liquidate penalty, in caſe of failzie, and that by and attour performance of the premiſſes, and together therewith, as the ſaid back-bond of the date foreſaid, inſert, and regiſtrate in our books of Council and Seſſion, and a decreet of our Lords thereof interponed thereto, upon the day and date of thir preſents, ordaining thir our letters to be direct thereupon, in manner under-written at more length proports. Our will is herefore, and we charge you ſtraitly, and command, that incontinent thir our letters ſeen, ye paſs, and in our name and authority, command and charge the ſaid A. B. *&c.* to make payment to the ſaid M. J. B. and his foreſaids of the ſaid principal ſum of money foreſaid, annuals and expences above ſpecified, contained in the ſaid bond, and to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid C. D. and his foreſaids thereof, and from payment of any part or portion of the ſame, and of all coſt, ſkaith, damage, intereſt, charges and expences, that the ſaid C. D. has ſuſtained, or that he or his foreſaids ſhall hereafter happen to ſuſtain, by or through his ſaid engagement in the ſaid bond, directly or indirectly, by whatſomever manner of way in time coming, and for that effect, to retire the ſaid bond unregiſtrate, or a ſufficient diſcharge thereof to the ſaid C. D. and in like manner to make payment to him of the ſaid penalty of money foreſaid, incurred by the ſaid A. B. through not performance of the premiſſes, and that attour performance, after the form and tenor of the ſaid back-bond, and decreet interponed thereto in all points, within days, which is ruled by the clauſe of regiſtration, next after the charge, under the pain of rebellion, *&c.* (here conclude the ſtile of an ordinary horning, but no poinding, and then ſay, according to juſtice as ye will anſwer, *&c.* and let the date of the regiſtration of the back-bond be the date of the letters, and conclude with

Per decretum Dominorum Concilii.

Nota, The reaſon why thir letters contain no poinding is, becauſe the Lords grant no ſuch for penalties annexed to an obligement for performing of any deed not liquid (as this of a relief) being too ſummary, and that there may be probable grounds why the debt was not paid at the term (as arreſtments and the like) and differs from that of bonds for borrowed money, payable under penalties which is liquid.

CAPTION

CAPTION *on the ſaid Horning.*

GEORGE, *&c.* meant and ſhown to us, by C. D. of that where upon the day of A. B. of was orderly denounced rebel, and put to our horn, by virtue of letters of horning, raiſed, uſed, and execute againſt him, at the inſtance of the ſaid complainer, for not payment making to M. J. B. of of the ſum of Scots money of principal, money foreſaid of expences, and annuals of the ſaid principal ſum, contained in a bond granted by both of them, conjunctly and ſeverally, and as conjunct principals, to the ſaid M. J. B. his heirs and aſſignees (ſecluding executors) thereupon, of the date the day of years, and that at the term of (being the term of payment ſpecified in the ſaid bond) and for not warranting, relieving, harmleſs, and ſkaithleſs keeping the ſaid C. D. his heirs, executors, and ſucceſſors thereof, and from payment of any part or portion of the ſame, and of all coſt, ſkaith, damage, intereſt, charges and expences the ſaid C. D. has ſuſtained, or that he or his foreſaids hereafter may ſuſtain or incur, by or through his ſaid engagement, directly or indirectly by whatſoever manner of way in time coming, and for that effect, for not retiring the ſaid bond unregiſtrate, or a ſufficient diſcharge thereof to the ſaid C. D. complainer, and for not-payment making to him of the ſum of money foreſaid of penalty, incurred by the ſaid A. B. through not doing thereof at the ſaid term, conform to a back-bond granted by the ſaid A. B. to the ſaid complainer and his foreſaids thereanent, of the date of the ſaid bond granted by them to the ſaid M. J. B. and his foreſaids, and which back-bond is regiſtrate in the books of council and ſeſſion, the day of as the ſaid letters of horning and executions thereof duly regiſtrate, conform to the act of parliament, ſhown to our Lords of Council and Seſſion has teſtified; under the proceſs of the which horn, the ſaid A. B. rebel foreſaid, has continually lien and abidden ſinſyne, and yet daily and continually haunts, frequents, reſorts, and openly repairs to kirks, markets, *&c.* here follow forth the ſtile of an ordinary caption *uſque ad finem*, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, There may be ſuſpenſion as in the former caſe, and upon the like reaſon, that the party is not diſtreſſed, but that will not do the turn *in fine*, as to this caſe, becauſe this perſon is not a cautioner as in the former, but a conjunct principal, and took the other bound to relieve him at the very term, and ſo ſhould he ſuſpend as the caſe alters, I doubt not but the charger will get the letters found orderly proceeded, and his penalty to be good, and yet there are few rules without an exception, as if the money were arreſted in the debtor's hands, and to pay in that caſe, not ſafe, but did the equivalent in ſuſpending for both, and finding ſufficient caution, or rather conſigning the money, which puts this charger without all peradventure beyond fear or hazard, and what lawyers might plead, or the Lords decide in ſuch a ſingular caſe, I leave it to themſelves, but I ſet down the ſuſpenſion.

SUSPENSION

SUSPENSION *of the ſaid Charge.*

GEORGE, *&c.* meaned and ſhown to us, by A. B. of that where C. D. of has upon his pretended manner raiſed other letters, and therewith cauſed charge the ſaid complainer to make payment to M. J. B. of of the ſum of Scots money of principal money foreſaid of expences, and annuals of the ſaid principal ſum, contained in a bond granted by the ſaid A. B. and the ſaid C. D. conjunctly and ſeverally to the ſaid M. J. B. his heirs and aſſignees (ſecluding executors) thereupon, of the date the day of years, and to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid C. D. his heirs, executors, and ſucceſſors thereof, and from payment of any part or portion of the ſame, and of all coſt, ſkaith, damage, intereſt, charges and expences he has ſuſtained, or that he or his foreſaids ſhall happen any ways to ſuſtain or incur there-through, directly or indirectly, by whatſoever manner of way in time coming, and for that effect, to retire the ſaid bond unregiſtrate, or a ſufficient diſcharge thereof to the ſaid C. D. and to make payment to him of the ſum of money above-written, of penalty alledged incurred by the ſaid complainer, for not doing thereof at the term of (being the term of payment contained in the ſaid bond) and that conform to a back-bond of relief, and of the date thereof granted by the ſaid complainer to him and his foreſaids thereanent, which is regiſtrate in the books of council and ſeſſion, the day of and that within a certain ſhort ſpace next after the charge, under the pain of rebellion, and putting the ſaid complainer to the horn, and for alledged diſobedience has denounced, at leaſt intends to cauſe denounce him rebel, and put him thereto moſt wrongouſly and unjuſtly, conſidering it is of verity, that as the ſaid C. D. did engage moſt kindly and friendly for the ſaid complainer to the ſaid M. J. B. in the ſaid bond, and that as conjunct principal for and with him, and granted the ſaid back-bond of relief, upon which he is now charged, ſo the complainer was moſt willing to have paid the debt, and thereby to have relieved the charger of his engagement at the preciſe term in the bond, and *de facto* did provide the money, but the ſaid M. J. B. being debtor to W. B. of by bond in a greater ſum, (or at leaſt the adequate) he has arreſted the ſame in the complainer's hands, as the copy of arreſtment ſhown to our Lords of Council and Seſſion has teſtified, and whereby it is evident that after arreſtment he was not *in tuto* to pay the money, but when the complainer heard that the ſaid C. D. was charged with horning, he immediately, and within the days of the charge, ſuſpended for both, and conſigned the money in the clerk of the bills hands, as the ſaid ſuſpenſion alſo ſhown to the ſaid Lords has teſtified, and by which conſignation the charger is quite beyond all fear and hazard, not only for the time, but *in eventu*, and ſo our ſaid Lords of Council and Seſſion may evidently perceive how wrongouſly and unjuſtly the ſaid complainer is charged, in manner and to the effect foreſaid, by all law, equity and reaſon;

nevertheleſs for obedience, the ſaid complainer has inſtantly found ſufficient caution (here take in the ſtile of the former ſuſpenſion from the figure (6) *uſque ad finem*) and let the date of the bill (which rules the day of compearance, and to which ſuſpended) be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, If there be neceſſity of relaxation, or a charge to put at liberty, the former obſervations upon the like will be a rule.

LETTERS *of Arreſtment at the Inſtance of a Creditor, in the Hands of a Perſon out-with the Kingdom for the Time, that owes Money to his Debtor, being (in effect, and upon the Matter) a Supplement at Edinburgh Croſs, and Pier of Leith.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by G. D. of that where A. B. of as principal, and C. D. of as cautioner for him, by their bond dated the day of years, (for the cauſes therein-ſpecified) bound and obliged them, conjunctly and ſeverally, to have contented and paid to the ſaid complainer, his heirs, executors or aſſignees, the ſum of Scots money of principal, with the annualrent thereof from the date to the term of payment under-written, and that betwixt and the term of then next to come, with the ſum of money foreſaid of liquidate expences in caſe of failzie, and annualrent after the ſaid term, during the not-payment, as the ſaid obligation of the date foreſaid, inſert and regiſtrate in our books of council and ſeſſion, and a decreet of our Lords thereof interponed thereto, upon the day of years, ordaining letters to be direct thereupon, in manner therein ſpecified, ſhown to our ſaid Lords has teſtified, whereupon the ſaid complainer raiſed letters of horning, containing poinding and arreſtment of before, as the ſame alſo ſhown to the ſaid Lords has teſtified; likeas, the ſaid complainer, by virtue of the ſaid letters, did not only arreſt in the hands of ſeveral perſons within the kingdom, ſums of money due by them to his ſaid debtors, but alſo intends to arreſt in the hands of ſome other perſons, likewiſe their debtors, who are now out-with the kingdom, and in reſpect that the ſame cannot be done by virtue of the ſaid letters, therefore neceſſary it is for the ſaid complainer to have thir our letters direct at his inſtance (in ſupplement, and by our ſaid Lords their deliverance) in manner, and to the effect after-ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly, and command, that incontinent thir our letters ſeen, ye paſs, (in ſupplement of the ſaid former letters) to the market-croſs of Edinburgh, and pier and ſhore of Leith, and there *reſpective* and *ſucceſſive* after others, and in our name and authority, fence and arreſt all and ſundry goods, gear, debts, ſums of money

money, mails, farms, profits and duties of lands, and other moveable goods and gear whatsoever pertaining and belonging, or any ways resting and addebted by whatsoever person or persons out-with the kingdom to the said A. B. and C. D. or either of them, any manner of way, to remain under sure fence and arrestment in their hands, and at the instance of the said complainer, ay and while he be compleatly satisfied and paid of the foresaid sums contained in the said bond, after the form and tenor thereof, decreet interponed thereto, and letters foresaid formerly raised thereupon, in all points, and that ye affix and leave just and authentic copies of the said arrestments, subscribed with your hand, at and upon the said market-cross of Edinburgh, and pier and shore of Leith, that none may pretend ignorance, according to justice, because the Lords have seen (as on the back of the bill) only in place of within, say above-written, and thereafter say, as ye will answer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, Had it been known the time of the raising of the first letters, that any of those persons were out-with the kingdom, I know no reason but the poinding of the first letters, which always carries arrestment, might have been so written, as to have prevented this supplement, and sure there had been no informality or incongruity in it, as to the point of stile. *Et frustra fit per plura*, &c.

LETTERS *in Supplement at an Heritor's Instance, against a Person out-with the Kingdom, his Tenant, to warn him to remove himself, Wife and Family, &c. from Lands or Houses, which cannot be done in the ordinary Way of Warning, as when in the Country.*

GEORGE, *&c.* to messengers, *&c.* meaned and shown to us by A. B. of that where the said complainer stands heritably infeft and seized in all and haill; (here insert the lands and where they lie, and then say) as the instrument of seisin granted to him thereupon, dated the day of years, in itself more fully proports, likeas, conform thereto and act of parliament made anent warning of tenants to remove from lands, the said complainer by virtue of his precept of warning subscribed by him thereanent, has lawfully warned I. H. present tenant and possessor of the said lands and others foresaid, at his dwelling-house thereon, and upon the ground, and at the parish-church door, upon a Sunday in the forenoon, after saying of the blessing, in due and competent form to flit and remove himself, (6) his wife, bairns, men tenants, servants, corns, cattle, goods and gear, forth and from the said lands and others foresaid, at the feast and term of Whitsunday next to come, and to leave the same then void and red, to the effect the complainer by himself, his men tenants, servants, and others in his name, may then enter thereto, and peaceably possess, bruik, enjoy, labour, manure

manure, ſet, raiſe, uſe, and diſpoſe thereupon, as the complainer's proper lands and heritage at his pleaſure in time coming, conform to his ſaid infeftment and act of parliament, in all points, (7) and becauſe the ſaid I. H. preſent tenant is for the time out of the kingdom, and ſo a warning at his dwelling-houſe, and by virtue of the ſaid precept not ſufficient, therefore neceſſary it is for the ſaid complainer to have thir our letters, in ſupplement, direct at his inſtance againſt him, in manner and to the effect after ſpecified, as is alledged. Our will is herefore, and we charge you ſtrictly and command, that incontinent thir our letters ſeen, ye paſs ſixty days preceding the term of Whitſunday next, to the market-croſs of Edinburgh, and pier and ſhore of Leith, and there, in ſupplement of the ſaid complainer's precept of warning, and in our name and authority, lawfully warn the ſaid I. H. preſent tenant and poſſeſſor of the ſaid lands and others foreſaid, to flit and remove himſelf, (here take in as is above from the figure of (6) till the figure of (7) and then ſay) and that ye affix and leave juſt and authentic copies of the ſaid warning, ſubſcribed with your hand, at the ſaid market-croſs, and at and upon the ſaid pier and ſhore of Leith, before famous witneſſes, that he may not pretend ignorance thereof, according to juſtice as ye will anſwer, *&c.* and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

HORNING *for Commiſſioners Fees.*

GEORGE, *&c.* to meſſengers, *&c.* meaned and ſhown to us by D. B. of T. that where by the 35th act of our firſt parliament holden at Edinburgh the 1ſt day of January 1661, intituled act concerning the election and charges of the commiſſioners from ſhires to the parliament, and for removing the divers debates that formerly occurred concerning the perſons who ought and ſhould have vote in the election of commiſſioners from the ſeveral ſhires of this kingdom to parliament, and who are capable to be commiſſioners to parliament, and clearing thereof for the future, it is ſtatute, enacted and declared by us, with advice and conſent of our eſtates of parliament, that beſides all heritors who hold a forty ſhilling land of us *in capite*, that alſo all the heritors, liferenters, and wadſetters, holding of us, and others who held their lands formerly of the biſhops, or abbots, and then hold of us, and whoſe yearly rent doth amount to ten chalders of victual or one thouſand pounds, all feu-duties being deducted, ſhall be and are capable to vote in the election of commiſſioners in parliament, and to be elected commiſſioners to parliaments, excepting always from the ſaid act, all noblemen and their vaſſals; and it being juſt that thoſe who ſhould be choſen, and accordingly ſhould attend us, and the kingdoms ſervice in parliaments, have allowance for their charges, we did therefore with advice aforeſaid, modify and appoint five pounds Scots of daily allowance, to every commiſſioner from any ſhire, including

including the first and last days of the parliament, together with eight days for their coming, and as much for their return from the furthest shires of Caithness and Sutherland, and proportionally at nearer distances; and that the whole freeholders, heritors and liferenters holding of the king and prince, shall, according to the proportion of their lands and rents lying within the shire, be liable and obliged in the payment of the said allowance, excepting noblemen and their vassals, for payment of which, all execution of horning, poinding, and quartering is to pass, as for raising of the excise, and that according as the time and days of the parliament shall be attested under the clerk of registers hands, as the said act of parliament sufficiently known to our Lords of Council and Session has testified; and true it is, that the said complainer as commissioner for the shire of served in the session of our parliament, holden at Edinburgh, the day of years, from the said day, to the day of thereafter, and upon which day the said parliament was, (here insert the word adjourned or dissolved, according as it truly was, and then say) as a testificate under our Lord register his hands, dated the day of shown to the said Lords has testified, and albeit it be of verity, that the said complainer has oft and divers times desired and required the whole freeholders, heritors and liferenters within the said shire, excepting noblemen and their vassals, holding of us and prince, to make payment to him as commissioner aforesaid, of the said five pound Scots of daily allowance, during the said space, as also of a proportional part of the said allowance for coming, and as much for return, effeiring to the distance of the place as said is, and according to the proportion of their lands and rents within the said shire, and for that effect to convene within the head burgh of the shire, and ordinary court-place thereof, at a certain day, and to set down a stent-roll of each person's proportion thereof, and make payment to the said complainer of the respective proportions accordingly; nevertheless they wrongously refuse, postpone and defer to do the same, without they be compelled, as is alledged. Our will is herefore, and we charge you strictly, and command, that incontinent thir our letters seen, ye pass, and in our name and authority command, and charge the whole freeholders, heritors and liferenters within the said shire, excepting noblemen and their vassals, holding of us and prince, personally, or at their dwelling-places, to meet and convene within the head burgh of the said shire, and ordinary court-place thereof, at a certain day to be prefixed by the sheriff of the said shire for that effect, and there set down a stent roll of each person's proportion of the said allowance, according to their lands and rents within the same shire, with certification if they fail, such of them as shall be present, will set down the said stent-roll of each person's proportion in manner foresaid, and the same being so set down by the whole, or such of them as be present as said is, that ye in our said name and authority command and charge the said whole freeholders, heritors and liferenters holding of us and prince, excepting as is above excepted, also personally or at their dwelling-house, to make payment to the said complainer of the said five pounds Scots of allowance daily, during the sitting of the said parliament, and including the first and last days, and proportionally of the like allowance, in time coming

ming to, and returning from the ſaid parliament, according to the diſtance of the place, each one of them for their own parts, to be ſet down in the ſaid ſtent-roll, after the form and tenor of the ſaid act of parliament, teſtificate and ſtent-roll in all points, within fifteen days, (here conclude the ſtile of an ordinary horning and poinding, only when you come in the poinding, to theſe words to the avail and quantity, ſay of each perſon's proportion contained in the ſaid ſtent-roll, and then according to juſtice,) here take in the deliverance of the bill, and then as you will anſwer, *&c.* and let the date of the bill be the date of the letters.

Ex deliberatione Dominorum Concilii.

CAPTION *on Commiſſioners Fees on the ſaid Horning.*

GEORGE, *&.* to meſſengers, *&c.* meant and ſhown to us by D. B. of T. that whereupon the day of laſt by paſt, J. M. of W. F. of T. W. of A. M. of T. H. of and S. G. liferentrix of the lands of and M. F. liferentrix of the lands of , *&c.* all freeholders, heritors, and liferenters, holding of us and prince within the ſhire of were orderly denounced rebels, and put to our horn, by virtue of letters of horning raiſed, uſed and execute againſt them, at the inſtance of the ſaid complainer, for not-payment making to him as commiſſioner for the ſaid ſhire, in manner after ſpecified, of the ſum of five pounds Scots money daily, and ilk day during his ſervice for the ſaid ſhire in the laſt ſeſſion of parliament, beginning upon the day of laſt by paſt, and ending the day of alſo laſt by paſt, and of their proportions of the ſum of for his coming thereto and returning therefrom, according to the diſtance of the place, ilk an of the ſaid perſons for their own parts, according to the proportion of their lands and rents lying within the ſaid ſhire, and as is particularly after-divided, *viz.* (here inſert each perſon's proportion as in the charge of horning, which no doubt will be according to the ſtent-roll, whether made by the whole or thoſe preſent, at the caſt, and then ſay) and that conform to the 35th act of our firſt parliament, holden at Edinburgh, the firſt day of January 1661. Appointing the ſaid allowance and teſtificate under my Lord Regiſter's hand, of the ſaid complainer, his ſerving in the ſaid ſeſſion of parliament, dated the ſaid teſtificate the day of and conform to the ſtent-roll ſet down by the whole freeholders, heritors, and liferenters of the ſaid ſhire, at leaſt ſuch of them as were preſent, the diet appointed by the ſheriff of the ſhire for that effect, dated the day of as the ſaid letters of horning, and executions thereof duly regiſtrate conform to the act of parliament, together with the ſaid ſtent-roll, whereupon the charge proceeded, ſhown to our Lords of Council and Seſſion have teſtified, under the proceſs of the which horn, the forenamed perſons, rebels above ſpecified,

ſpecified, have continually lain and abidden ſinſyne, and yet daily haunt, frequent, reſort, and openly repair to kirks, markets, and other private and public places and companies, within this our realm, as if they were free ſubjects therein, and no ſuch proceſs of horning led and deduced againſt them in the ſaid matter, in high contempt of us and our authority and laws, and in evil examples of others to commit the like in time coming, without remeid be provided thereto, as is alledged. Our will is herefore, (here follow forth the ſtile of an ordinary caption *uſque ad finem*,) only after the words according to juſtice, take in the deliverance of the bill of caption, and let the date of the bill be the date of the letters, and conclude with

Ex deliberatione Dominorum Concilii.

Nota, At times perſons ſuſpend, but the cauſe being obvious, *viz.* that they are not the King's barons, and without the comprehenſion of the act of parliament as to biſhops and abbots lands, or that they are injured in the diviſion and proportion by the ſtent-roll, ſet down by a few perſons, who favouring themſelves, loaded the ſuſpenders in a great deal more than their juſt proportions, and the ſuſpenders being neceſſarily abſent, the diet prefixed, thoſe preſent took their advantage, whereas had the ſuſpenders been in the country, they would have been preſent in obedience to the charge, and ſeen matters adjuſted without cauſe of complaint from either parties, and againſt which injury in ſo great a diſproportion (and upon which they would condeſcend) they craved redreſs by the Lords their juſtice and the like reaſons, I forbear to ſet down the ſtile.

Nota, Many more letters might be ſet down, but would ſwell up to a great pitch of writing, ſo that I conclude what already ſet down to be ſufficient with this addition and animadverſion, that horning and caption may be raiſed upon any writ obligatory bearing regiſtration, and a conſent that letters paſs, whether for payment of ſums, performing of deeds, or other cauſe whatſoever, but no poinding, unleſs for liquidate ſums, and yet inhibition may paſs upon any obligatory writ, whether it bear regiſtration or not, and ſentence following upon the ground of the inhibition, the ſame afterwards take effect, yea arreſtment, ay and while caution be found, may be inſert in the ſaid inhibition, without any incongruity in ſtile.

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SECOND PART OR BRANCH

OF THE

FOURTH PART of the Author's Syſtem of Styles, conſiſting of SIGNATURES paſſed in Exchequer, and expede the Seals.

SIGNATURE *of Appriſing of Lands, when the Debiters are infeft, to be found in the firſt Part of the Work, page* 46.

SIGNATURE of appriſing led againſt the debitors heirs, as lawfully charged, not inſert; but,

Nota, *When the debitors are dead, and the creditor purſues the apparent heirs, and obtains decreet againſt them, and thereupon charges them to enter heirs in ſpecial to their fathers, which is equivalent as if they were infeft, and thereafter deduces a compriſing againſt them, the creditor may paſs a ſignature thereupon, and differs nothing from the former, but in this one point,* viz. *In place of* the which lands *in the former, after the diſpoſitive clauſe, write thus:* Which lands and others above appriſed, with the pertinents, pertained heritably of before to the deceaſed A. B. C. D. and J. B. and were, in a court of appriſing, holden within the new ſeſſion houſe of Eindburgh, before —— meſſenger, judge and ſheriff in that part, and his colleagues, upon the —— day of —— years, lawfully appriſed from A. B. now of ——, C. D. now of ——, and J. D. now of ——, eldeſt lawful ſons, and lawfully charged to enter heirs in ſpecial to the ſaid deceaſed A. B. C. D. and J. B. their fathers, within forty days, conform to the act of parliament, and from their heirs and ſucceſſors, and their tutors and curators, for their intereſt, and all others having, or pretending to have intereſt in the ſaid matter, at the inſtance, and to and in favours of the ſaid W. C. and his heirs and aſſignees whatſoever, heritably, for payment and ſatisfaction to them of the ſums of money, principal, annualrents, and expences contained in the decreet and proceſs of appriſing, led and deduced thereanent, extending at the term of ——, to the ſum of —— Scots money, and that as for the principal; and of the ſum of —— money foreſaid, of ſheriff fee, correſpondent thereto, *ſalvo juſto calculo* in both the ſaid ſums, and which appriſing was duly allowed by the Lords of council and ſeſſion, in manner written on the back thereof, upon the —— day of ——; and ordains the ſaid W. C. and his foreſaids, to be heritably infeft and ſeiſed in the ſaid lands and others above appriſed, with the pertinents, by way of ſignature and compoſition in his Majeſty's exchequer, and as the ſaid decreet of appriſing in itſelf more fully proports. And his Majeſty wills and grants, and for his Highneſs and his royal ſucceſſors, with conſent above ſpecified, decerns and ordains, that a ſaſine to be taken by the ſaid W. C. and his foreſaids, now, and in all time coming, *&c. After this, follow forth the ſtyle of the former ſignature, beginning at the 7th line of the 47th page of the firſt part of this work,* uſque ad finem.

SIGNATURE of appriſing in favours of the heir of the appriſer, the father not being formerly infeſt; for if infeft, behoved to enter by ſervice and retour: But this ſignature, not *ad longum* inſert, but in theſe particulars differ from the former, (Part I. fol. 46.) *viz.* 1. In the diſpoſitive clauſe of the former, it is to the father, his heirs and aſſignees; in this, it muſt be to the ſon, as eldeſt lawful ſon and heir ſerved and retoured to the deceaſed W. C. of ——, his heirs and aſſignees. 2. In the *quæquidem*, or which lands, after the diſpoſitive clauſe, hold on as in the former ſignature, only call the appriſer the ſaid deceaſed W. C. of ——, till ye come to the *diſpenſation*, and then add, *And to which appriſing the ſaid —— has right, as heir foreſaid.* And then, 3. Go on with the diſpenſation for taking of faſine, *tenendo* and *reddendo*, *uſque ad finem*; only take in the ſon for the father.

Nota, In all ſignatures of appriſing, if within the years of the legal, this clauſe muſt be inſert after *pro omni alio onere* in the *reddendo*, redeemable always, and under reverſion, conform to the act of parliament. 2. The treaſurer, or Lords of the treaſury, when in commiſſion, uſe to cauſe inſert this clauſe after the former, and with this proviſion alſo, that in caſe the appriſer, either by expiration of the legal reverſion, or by tranſaction with the debitor, ſhall attain to the irredeemable right of the lands appriſed, then he ſhall be holden to paſs a new infeftment thereof, through the ſeals and regiſters, and that within year and day after the ſaid expiration or acquiſition. 3. When the legal is truly expired, the appriſer will either declare the ſame, or paſs a new infeftment, on his own reſignation, in common form; and, in effect, in the diſpoſitive clauſe, and all alongſt, takes in the words heritably and irredeemably; but in this caſe, the *tenendas* and *reddendas* muſt be inſtructed by documents, I mean the debitor or his author's charter, as well as the lands are by the appriſer's own infeftment.

SIGNATURE *of Reſignation of an Annualrent out of Lands.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents, according to the conſtitution of exchequer for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of Scotland, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his ſucceſſors perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his royal ſucceſſors, perpetually confirms to G. D. of ——, his heirs and aſſignees whatſoever, heritably, (under reverſion always, in manner under written), all and haill, an annualrent of —— Scots money, or any other annualrent eſſeiring to the principal ſum of —— money foreſaid, borrowed by A. B. of ——, heritable proprietor of the lands and others after ſpecified, furth of which the ſame is appointed to be uplifted and taken, in manner after mentioned, from the ſaid G. D. that ſhall happen to be eſtabliſhed by any ſupervenient law within this realm, for the future, yearly, to be uplifted and taken at two terms in the year, W. and M. by equal portions,

furth

furth of all and haill the ſaid A. B. his lands of ——, lying within the pariſh of ——, and ſheriffdom of ——, or forth of any part or portion thereof, and firſt beſt and readieſt of the mails, profits, and duties of the ſame; and which lands and others above ſpecified, forth of which the ſaid annualrent is appointed to be uplifted, as ſaid is, pertained heritably to the ſaid A. B. likeas the ſaid annualrent forth thereof, was by him, and his lawful procurators in his name, to that effect ſpecially conſtitute by the procuratory of reſignation, and patent letters contained in the heritable bond, and right of annualrent granted by the ſaid A. B. to the ſaid G. D. and his foreſaids, of the date the —— day of —— years, with all due humility and condign reverence as becomes, purely and ſimply by ſtaff and baſton, as uſe is, duly and lawfully reſigned in the hands of his Majeſty's commiſſioners of exchequer, appointed to receive reſignations, and having alſo power to grant new infeftments thereupon, as in the hands of his ſaid Majeſty, immediate lawful ſuperior of the ſaid lands, and conſequently of the ſaid annualrent upliftable forth thereof, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid G. D. and his foreſaids, under his Majeſty's great ſeal of his ſaid ancient kingdom, under reverſion, in manner ſpecified in the ſaid bond, in ſuch due and competent form as accords, at —— the —— day of —— years, as authentick inſtruments taken thereupon, in the hands of —— notary-publick, in themſelves more fully is contained: And his Majeſty wills and grants, and for him and his royal ſucceſſors, with conſent above mentioned, decerns and ordains, that a ſaſine to be taken by the ſaid G. D. and his foreſaids, of the ſaid annualrent, upon the ground of any part of the ſaid lands, and others foreſaid, now, and in all time coming, is, and ſhall be as ſufficient to them, as if a particular ſaſine were taken by them, upon each part or portion thereof, albeit the ſame be not ſo done thereanent, and with all that may follow thereupon, or can be objected againſt the ſame, his Majeſty, with conſent above ſpecified, has diſpenſed, and for his Highneſs and his royal ſucceſſors, diſpenſes for ever, to be holden, and for to hold the foreſaid annualrent upliftable forth of the ſaid lands, at the terms, and by equal portions, as ſaid is, to the ſaid G. D. and his foreſaids, heritably, under reverſion, as ſaid is, of his Majeſty and his ſucceſſors, as immediate lawful ſuperiors of the ſame, in free blench, fee and heritage for ever, with free iſh and entry thereto, and with all and ſundry other liberties, *&c.* freely, quietly, but revocation, *&c.* giving therefor, yearly, the ſaid G. D. and his foreſaids, during the ſaid not redemption to his Majeſty and his ſucceſſors, one penny Scots money, upon the ground of the ſaid lands, at the feaſt of W. yearly, in name of blench farm, if it be aſked, allenarly, for all other burdens, *&c.* and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed thereupon, in form, as effeirs. Given at

Nota, As a land holden ward, by its nature, and conform to the act of parliament, cannot be diſponed holden blench, ſo an annualrent forth thereof, being of neceſſity of the ſame nature, cannot be diſponed otherwiſe, without hazard of recognition; but as to the ſignature aforeſaid, the lands are judged to hold blench or feu.

Nota, As to the precept in Latin, upon the ſaid ſignature, the ſame goes in courſe; and ſo not inſert, but omitted, as all of that kind, few or none excepted.

The next to be proſecuted, is a confirmation of the ſaid right of annualrent, if it pleaſe the creditor ſo to have it, rather than by reſignation; and, in effect, it is uſually a little cheaper in exchequer, and paſſing through the ſeals.

SIGNATURE *of Confirmation of an Annualrent.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here inſert the conſents, according to the conſtitution of the exchequer for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid kingdom of Scotland, in due and competent form, ratifying, approving, and for his Highneſs and his ſucceſſors perpetually confirming, likeas his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for his Highneſs and his ſucceſſors, perpetually confirms an heritable bond, dated the —— day of —— years, granted by A. B. of ——, heritable proprietor of the lands and others after ſpecified, forth of which the annualrent after mentioned, is appointed to be uplifted, and taken in manner after expreſſed, to G. D. of ——, his heirs and aſſignees whatſoever, whereby the ſaid A. B. for the ſum of —— merks Scots money, borrowed and received by him from the ſaid C. D. in manner, and at the time therein contained, bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe, by charter and ſaſine, *titulo oneroſo*, in due and competent form, the ſaid G. D. his heirs and aſſignees above ſpecified, heritably, under reverſion, in manner therein mentioned, in all and haill an annualrent of —— merks money foreſaid, or any other annualrent effeiring to the ſaid principal ſum, that by any ſupervenient law ſhall happen to be eſtabliſhed within this kingdom, for the future, yearly, to be uplifted and taken at two terms in the year, W. and M. in winter, by equal portions, forth of all and haill the ſaid A. B. his lands of —— lying within the pariſh of —— and ſheriffdom of ——, or forth of any part or portion thereof, and firſt beſt and readieſt of the mails, farms, profits, and duties of the ſame, and that [redacted] double infeftments and manner of holdings, to be holden with warrandice, a[redacted]nder reverſion, in manner ſpecified in the ſaid bond, together with the precept of ſaſine therein contained, for infefting the ſaid G. D. in the ſaid annualrent, to be holden of his Majeſty and his ſucceſſors, and inſtrument of ſaſine following thereupon, dated the —— day of —— years, in the haill heads, obligements, articles, clauſes, and conditions of the ſame: And his Majeſty, with advice and conſent foreſaid, wills and grants, and for his Highneſs and his royal ſucceſſors, decerns and ordains, that the foreſaid general confirmation, is and ſhall be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the foreſaid heritable bond and precept of ſaſine therein contained, and inſtrument of ſaſine following thereupon, were, word by word, herein inſert and ingroſſed, and as if the foreſaid confirmation were granted

ed before taking of ſaſine of the foreſaid annualrent, albeit the ſame be not ſo done thereanent; and with all that may follow thereupon, or that can be objected againſt the validity thereof, his Majeſty, with conſent foreſaid, has diſpenſed, and for him and his ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden the ſaid annualrent of his Majeſty and his ſucceſſors, as immediate lawful ſuperiors thereof, in fee and heritage for ever, with free iſh and entry, freely, quietly, *&c.* but revocation, *&c.* reſerving always to his Majeſty and his ſucceſſors, the feu-duties, blench-duties, and other duties and ſervices, if any be, due and payable to them, forth of the ſaid lands and others foreſaid, forth of which the ſaid annualrent is upliftable, as ſaid is, and contained in the original infeftments of the ſame, at any time before the ſaid confirmation, for all other burden, exaction, *&c.* and that the ſaid charter be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in due and competent form, as ſaid is. Given at

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SIGNATURE *by Reſignation of Lands for Security of Money, and not by way of Annualrent forth thereof.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents, according to the conſtitution of the exchequer, whether by a treaſurer or treaſury, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his ſucceſſors perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors, perpetually confirms to G. D. of ——, his heirs and aſſignees whatſoever, heritably, all and haill the lands of ——, (*here inſert all as in the heritable bond and ſaſine*), lying within the pariſh of —— and ſheriffdom of ——, which lands and others above ſpecified, with the pertinents, lying as ſaid is, pertained heritably of before to A. B. of ——, and were by him and his lawful procurators in his name, to that effect ſpecially conſtitute, and patent letters contained in the heritable bond, of the date the —— day of —— years, [illegible] and granted by the ſaid A. B. of ——, to the ſaid G. D. of ——, his heirs and aſſignees whatſoever, heritably, duly and lawfully reſigned by ſtaff and baſton, as uſe is, in the hands of the ſaid ——, (*here inſert Lord high treaſurer, or Lords commiſſioners of his Majeſty's treaſury and exchequer, according to the conſtitution for the time, and then ſay*), having power to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments in his Majeſty's name, immediate lawful ſuperiors thereof, at Edinburgh, the —— day of ——, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid G. D. his heirs and aſſignees whatſoever, heritably, to be holden of his Majeſty and his royal ſucceſſors, in manner under written, and in ſuch due and competent form as

as accords, redeemable always, and under reverſion by the ſaid A. B. his heirs and aſſignees, from the ſaid G. D. and his foreſaids, by payment or conſignation of the ſum of —— of principal, with the annuals and expences, and charges of the infeftments ſpecified and contained in the ſaid heritable bond, and doing and performing of the other obligements and conditions therein expreſſed, and here holden as for expreſſed, *brevitatis cauſa*, as authentick inſtruments taken thereupon in the hands of —— notary-publick, in themſelves more fully propone; and his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid G. D. and his foreſaids, now, and in all time coming, at the principal dwelling-houſe of the ſaid lands, of (6) or upon the ground of any part or portion of the ſame, is and ſhall be as ſufficient, as if a particular ſaſine were taken by them upon each part or portion thereof, albeit the ſame be not ſo done thereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, and diſcontiguity of the ſaid lands; and, notwithſtanding of any other place deſigned by the infeftments thereof, for taking of ſaſine, if any be, his Majeſty, with conſent foreſaid, has diſpenſed, and for him and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden, and for to hold the ſaid lands and others foreſaid, to the ſaid G. D. and his foreſaids, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in fee and heritage for ever, at leaſt, during the ſaid not redemption, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* ways, paſſages, *&c.* mills, multures, *&c.* hawking, hunting, fiſhings, peats, turfs, coals, coal heughs, cunnings, cunningaries, *&c.* ſmiths, ſmithies, with court-plaint, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation; giving therefor, yearly, the ſaid G. D. and his foreſaid, to his Majeſty and his royal ſucceſſors, as ſuperiors thereof, during the ſaid not redemption, the feu-duty, blench-duty, and other duties, if any be, due and payable to them forth thereof, and contained in the ſaid A. B. his infeftment of the ſame, at any time before the ſaid reſignation, for all other burden, exaction, *&c.* and but prejudice always to the ſaid G. D. and his foreſaids, of their relief of the ſame, and repayment thereof from the ſaid A. B. and his foreſaids, conform to the ſaid heritable bond and obligements therein contained, in all points; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, Hereafter I begin all ſignatures with OUR SOVEREIGN LORD, and then balks the conſents, leaving them to be inſert according to the conſtitution for the time, *brevitatis cauſa*: And then I ſay, *Ordains a charter to be made and paſſed.*

SIGNATURE

SIGNATURE *of Appriſing in Favours of the Heir, where the Father was not infeft.*

OUR SOVEREIGN LORD ordains a charter to be made and paſſed under his Highneſs's great ſeal, in due and competent form, giving, granting, and diſponing, and for his Highneſs and royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors, perpetually confirms to G. D. of ——, ſon and heir ſerved and retoured to the deceaſed G. D. of ——, and thereby having right to the appriſing after ſpecified, and to his heirs and aſſignees whatſoever, heritably, all and haill (*here inſert the lands as in the appriſing, and where they ly, and likewiſe the teinds, if appriſed with the ſtock, and then ſay*) which lands and others above ſpecified, with the pertinents, pertained heritably of before to A. B. of ——, (6) and were, in a court of appriſing holden within the tolbooth of —— before I. H. meſſenger, judge and ſheriff in that part, and his colleagues, upon the —— day of —— 17— years, duly and lawfully appriſed from him, his heirs and ſucceſſors, and all others having, or pretending to have intereſt in the matter, at the inſtance, and to and in favours of the ſaid deceaſed G. D. of ——, his heirs and aſſignees whatſoever, heritably, for payment and ſatisfaction of the ſums of money, principal, annualrents, and expences contained in the decreet and proceſs of appriſing led and deduced thereanent, extending in the haill, at the term of ——, to the ſum of —— Scots money, and that as for the principal, and of the ſheriff-fee effeiring thereto, extending to the ſum of —— money foreſaid, *ſalvo juſto calculo*, in both the ſaid ſums, and which appriſing was allowed by the Lords of council and ſeſſion, ~~in manner written on the back thereof, upon the —— day of ——~~, and to which appriſing the ſaid (7) G. D. now of ——, has good and undoubted right, as heir ſerved and retoured to his ſaid deceaſed father, the appriſer, upon the —— day of —— 17— years: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid G. D. now of ——, and his foreſaids, now and in all time coming, at the manor-place (8) or principal dwelling-houſe of the ſaid lands of ——, or upon the ground of any other part or portion of the ſaid lands above appriſed, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid lands and others above appriſed, with the pertinents, as if a particular ſaſine were taken by them, upon each part and portion thereof, and that by tradition and delivery of earth and ſtone, without neceſſity of any other ſymbol to be given or uſed for that effect; and, notwithſtanding the ſaid lands and others foreſaid, ly diſcontiguous, and in divers juriſdictions, and without reſpect to any other part or place deſigned and appointed for taking ſaſine thereof, by the ſaid A. B. or his predeceſſors and authors, their rights and infeftments of the ſame, at any time before the ſaid appriſing thereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the

ſaid

ſaid ſaſine ſo taken, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Highneſs and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden, and for to hold all and ſundry the ſaid lands, and others above appriſed, with the pertinents, lying, as ſaid is, to the ſaid G. D. now of ——, and his foreſaids, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in fee and heritage for ever, at leaſt, during the not redemption, conform to the act of parliament, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly, in length and breadth, in houſes, biggings, *&c.* ways, paſſages, *&c.* mills, multures, *&c.* hawking, hunting, *&c.* coals, coal-heughs, *&c.* ſmiths, ſmithies, *&c.* court-plaint, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* without any revocation, *&c.* giving therefor, yearly, the ſaid G. D. now of ——, and his foreſaids, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, the feu-duties, blench-duties, and other duties, if any be, due and payable to them as ſuperiors, forth of the ſame, and contained in the ſaid A. B. of ——, and his predeceſſors and authors, their rights and infeftments of the ſame, at any time before the ſaid appriſing, redeemable always, and under reverſion, conform to the act of parliament, and with this proviſion and declaration always, that in caſe it ſhall happen the ſaid G. D. now of ——, or his foreſaids, to attain to the irredeemable right of the ſaid lands and others above appriſed, with the pertinents, either by expiration of the legal reverſion of the ſaid appriſing, or by a final tranſaction with the debitor, then, and in either of theſe caſes, the ſaid G. D. and his foreſaids, ſhall be holden to expede a new infeftment thereof, through the ſeals and regiſters; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Appriſing, in Favours of an Aſſignee, where the Appriſer was not infeft himſelf.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Highneſs's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his foreſaids, perpetually confirms, to M. J. B of ——, his heirs and aſſignees whatſoever, heritably, all and haill (*here inſert the lands as in the appriſing, and where they ly, as alſo the teinds, if appriſed with the ſtock, and then ſay*) which lands and others above appriſed, with the pertinents, pertained heritably of before to A. B. of —— (*here take in from the figure* (6), *till ye come to the figure* (7), *in the former ſignature* (7); *only, when ye name the appriſer, call him not* ſaid deceaſed, *but* deceaſed, *not being named formerly, and then ſay*) the ſaid M. J. B. has right from the ſaid deceaſed G. D. of ——, conform to the right and

and diſpoſition granted thereanent, dated the —— day of —— 17— years: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid M. J. B. and his foreſaids, now, and in all time coming, at the manor-place, (*here take in the ſtyle of the former ſignature, from the figure* (8), uſque ad finem, *with this alteration, that in the* tenendas *and* reddendas, *where G. D of —— is named, put* M. J. B. *in place thereof.*

SIGNATURE *of Adjudication in favours of the Adjudger, proceeding on a* cognitionis cauſa, *with an Account of the ancient Form under the Quarter-ſeal, and how altered.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his royal ſucceſſors, perpetually confirming; likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors, perpetually confirms to A. B. of ——, his heirs and aſſignees whatſoever, heritably, all and haill, (*here inſert the lands, as in the adjudication, and where they ly, as alſo the teinds, if adjudged with the ſtock, and then ſay*) which lands, and others above ſpecified, with the pertinents, pertained heritably of before to the deceaſed H. M. of ——, and were lawfully adjudged from W. M. his eldeſt lawful ſon, as lawfully charged to enter heir, and who renounced to be heir to him, and from his heirs and ſucceſſors, tutors and curators, and all others having, or pretending to have intereſt, at the inſtance, and to and in favours of the ſaid A. B. of ——, his heirs and aſſignees whatſoever, heritably; for payment and ſatisfaction to them of the ſums of money, principal, annualrents, and expences contained in the decreet of adjudication, given and pronounced in the ſaid matter, before the Lords of council and ſeſſion, upon the —— day of —— 17— years, extending in the whole, at the term of ——, to the ſum of —— Scots money, (6) and by which decreet, the ſaid A. B. and his foreſaids, are ordained to be heritably infeft and ſeiſed in the ſaid lands, and others above adjudged, with the pertinents, to be holden in manner under written, and as in the ſame more fully is expreſſed: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid A. B. and his foreſaids, now, and in all time coming, at the manor-place, (*here take in the diſpenſation,* tenendas *and* reddendas, *as in the mediate preceding ſignature,* uſque ad finem; *only, in place of* that perſon, *inſert* A. B. *and in place of the word* appriſing, *inſert* adjudication, *and then conclude with,*) And that the ſaid charter be extended in moſt ample form, with all clauſes needful, *&c.* Given at

Nota, When lands held of the King, in caſes of this nature, no ſignature paſſed at all, but the adjudger gave in a bill to the Lords in courſe, as any other common bill, ſhewing, that upon

upon ſuch a day, he obtained the lands adjudged from ſuch a perſon, as lawfully charged to enter heir, and who renounced to be heir to his father, for payment of ſuch a ſum, conform to the decreet pronounced thereanent before the Lords, and whereby he was ordained to be infeft, to be holden of his Majeſty and royal ſucceſſors, as ſuperiors, in the ſame way and manner as the defunct held the ſame, or as his ſon might have holden the ſame, had he entered, and not renounced to be heir to him, in manner foreſaid, as the ſaid decreet, preſent to ſhow, bears; and therefore, craving the Lords might ordain the director of the chancellary, and his deputes, to emit and direct forth a precept under the quarter-ſeal, in due and ample form of chancellary, directed to the ſheriff, baillie of regality, or ſtewartry where the lands ly, or to ——, as ſheriff, *&c.* in that part, for giving ſaſine of the lands adjudged to be holden of his Majeſty and ſucceſſors, *ut ſupra:* And this bill was paſſed by the Lord Ordinary on the bills, and ſubſcribed by the clerk of the bills, and then the director, or his deputes, gave out a precept under the quarter-ſeal accordingly, and ſaſine followed, and was regiſtered within ſixty days: But within theſe twenty years, the Lords of the treaſury would have it paſſed by way of ſignature, and the writers ceded, not willing to give offence, albeit there was no poſitive ſtatute for it; and yet ſome to this day, and, to be ſure, do it the old way, if not both ways.

SIGNATURE *of Adjudication on the Act of Parliament, come in place of Appriſings, in Favours of the Adjudger.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors, perpetually confirms to A. B. of ——, his heirs and aſſignees whatſoever, heritably, all and haill (*here inſert the lands as in the adjudication, and where they ly, and likewiſe the teinds, if adjudged with the ſtock, and then ſay*) which lands and others above adjudged, with the pertinents, pertained heritably of before to W. M. of ——, and were lawfully adjudged from him, his heirs and ſucceſſors, and all others having, or pretending to have intereſt in the matter, at the inſtance, and to and in favours of the ſaid A. B. of ——, his heirs and aſſignees whatſoever, heritably, for payment and ſatisfaction to them of the ſums of money, principal, annualrents, and expences contained in the decreet after ſpecified, extending in the haill, at the term of ——, to the ſum of —— uſual money of this realm, *ſalvo juſto calculo*, (6) and that by and attour the compoſition to the ſuperior, and expences of the infeftment, conform to the decreet of adjudication, founded upon the act of parliament, appointing adjudications to come in place of compriſings, pronounced thereanent, before the Lords of council and ſeſſion, dated the —— day of —— 17— years, and duly allowed by the ſaid Lords, in manner written on the back thereof, upon the —— day of ——, and whereby the ſaid Lords have ordained the ſaid A. B. and his foreſaids, to be heritably infeft in the ſaid lands, and others above adjudged, with the pertinents, to be holden in manner under written, as the ſaid decreet

of

of adjudication, duly allowed, as ſaid is, in itſelf more fully is contained: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid A. B. and his foreſaids, now and in all time coming, at the manor-place of the ſaid lands of —— (*here follow forth the ſtyle of the diſpenſation*, tenendas, reddendas, *reverſion, and other clauſes contained in the ſignature, page* 46. Part I. uſque ad finem.

Nota, 1. In ſome adjudications, the decreet bears not only the extent of the ſums at ſuch a term, or to the date of the adjudication, but alſo theſe words, *and of the annualrent of the ſaid accumulate ſum, ſince the ſaid term of* ——, *or ſince the ſaid adjudication, and in time coming, during the not redemption*; and then come in the words, *attour the compoſition to the ſuperiors, and expences of the inſeſtment*; and if it fall out ſo, add theſe words at the figure (6). 2. You would notice before you write the ſignature, of whom the lands hold; for ſome may hold of the King, and others of ſubjects, as ſuperiors; and ſometimes the adjudger, not certainly knowing who are the true ſuperiors, and therefore, by gueſs, takes them to be holden by the King, or of ſuch a perſon or ſuch a perſon, or of any others the lawful ſuperiors thereof. As to all which, I give you this direction, That as if all be ſaid to be holden of the King, poſitive, then all is to be inſert in the ſignature; yea, if not poſitive, but by alternatives, let all be inſert, to be ſure; and ſhould any part afterwards be found to hold of any other ſuperior, there is no hazard to the adjudger or appriſer, being ignorant of, and not knowing who is the true ſuperior, and not maſter of his debitor's charter-cheſt, and ſo but a *jactus retis*, and the worſt is, to enter by the true ſuperior when known, and can infer no diſclamation as in that of reſignations, which is a voluntary act; and, upon the other hand, when the adjudication is clear, as to what holds of the King, and what of other ſuperiors, there needs no more be inſert in the ſignature, than what truly holds of the King; and as to what holds of other ſuperiors, horning may be raiſed againſt them to infeft, which ye will find amongſt the ſtyle of letters paſſing the ſignet, and look the index for it.

Nota, If the adjudication be diſponed to another perſon, and that the adjudger himſelf was not infeft, then the acquirer may draw a ſignature in his own favours. Wherein obſerve, 1. That in the diſpoſitive clauſe of the ſignature, the lands is to be to the acquirer, his heirs and aſſignees. 2. Whereas, in the *quæquidem*, or, *which lands pertained heritably of before to A. B. of* ——, *and were lawfully adjudged from him at the inſtance of the ſaid G. D.* (becauſe he was formerly named in the diſpoſitive clauſe, were the ſignature in his own favours,) ye muſt now ſay, *at the inſtance of G. D. of* ——, (leaving out the word *ſaid*), *his heirs and aſſignees, for payment and ſatisfaction to them of the ſums of money*, (here take in the words of the former ſignature, page 153, till ye paſs the allowance, and then ſay) *and whereby the ſaid G. D. and his foreſaids, were ordained to be heritably inſeſt in the ſaid lands and others above adjudged, with the pertinents, to be holden in manner under written.* After which, add this clauſe, *viz. Likeas the ſaid G. D. by his right and diſpoſition, of the date the —— day of* ——, *diſponed the foreſaid adjudication, allowance written on the back thereof, lands and others therein ſpecified, ſums of money therein contained, and thereby due of the law, with all that followed, or might follow thereupon, in favours of the ſaid* ——, (meaning the perſon to whom the diſpoſition is granted, and in whoſe favours the ſignature is to be written,) *his heirs and aſſignees*; and then inſert the diſpenſation for taking a ſaſine, and the *tenendas* and *reddendas*, reverſion and other proviſion, as in the former ſignature upon an adjudication, page 46, Part I. changing the name.

SIGNATURE *of Confirmation of Lands wadſet, being a proper wadſet cled with Poſſeſſion, not ſet in back-tack to the Heritor, for Payment of the Annual-rent of the Money, or other Duty, and uſually goes by Confirmation; but, if the Party pleaſe, may paſs by Reſignation.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom of Scotland, in due and competent form, ratifying, approving, and for his Highneſs and his royal ſucceſſors perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and, for his Highneſs and his ſucceſſors, perpetually confirms to W. M. of ——, and I. H. his ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and to the heirs lawfully procreate, or to be procreated betwixt them, which failing, to the ſaid W. M. his other heirs and aſſignees whatſoever, heritably, the contract of wadſet made and paſſed betwixt M. I. B. of ——, heritable proprietor of the lands and others after ſpecified, on the one part, and the ſaid W. M. of —— and the ſaid I. H. his ſpouſe on the other part, of the date the —— day of —— 17— years, whereby the ſaid M. I. B. for the ſum of —— uſual money of this realm, advanced, paid, and delivered to him by the ſaid W. M. for himſelf, and in name and behalf of his ſaid ſpouſe, in manner therein ſpecified, ſold, annalzied, wadſet, and diſponed to the ſaid W. M. and the ſaid I. H. his ſpouſe, and to the longeſt liver of them two, in conjunct fee and liferent, and the heirs betwixt them, which failing, as ſaid is, and their aſſignees, heritably, all and haill (*here inſert the lands, and where they ly, as in the contract, as alſo the tithes if diſponed with the ſtock, and then ſay*) and the ſaid M. I. B. bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid W. M. his ſaid ſpouſe and their foreſaids, which failing, as ſaid is, in liferent and fee *reſpective*, and heritably, in manner foreſaid, in the ſaid lands and others above ſpecified, with the pertinents, and that by double infeftments, *a me* and *de me*, to be holden with abſolute warrandice, and under reverſion, in manner therein mentioned; and for their farther ſecurity thereanent, aſſigned, transferred and diſponed in their favours, the writs and evidents of the ſaid lands and others foreſaid, and conſtitute them his aſſignees in and to the haill mails, farms, kains, cuſtoms, caſualties, profits, and duties of the ſaid lands and others above written, of the crop and year of God —— years, and thereafter in all time coming, during the not redemption, and to make payment to them and their foreſaids, which failing, as ſaid is, of the ſaid principal ſum, at the term of —— even 17— years, or any other term of Whitſunday and Martinmas even thereafter they pleaſe, upon the requiſition therein ſpecified, to be made by them to the ſaid M. I. B. and his foreſaids, for that effect, of before, perſonally, or at their dwelling-places for the time, in preſence of a notary and witneſſes, as effeirs, and alſo to make payment to them of the ſum of —— money foreſaid, in name of liquidate penalty, in caſe of failzie, and that by and attour the ſaid principal ſum,

and

and together therewith; and likewiſe, to do and perform ſeveral other clauſes and conditions, ſpecified and contained in the ſaid contract of wadſet, all here holden as for expreſſed *brevitatis cauſa*, together with the charter following on the ſaid contract, precepts of ſaſine contained in both, and inſtruments of ſaſine following, or competent to follow thereupon, (6) in the haill heads, obligements, articles, clauſes, proviſions, and conditions therein contained: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his royal ſucceſſors, decerns and ordains the foreſaid general confirmation, to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, to the ſaid W. M. his ſaid ſpouſe and their foreſaids, which failing, as ſaid is, as if the ſaid contract of wadſet, charter and ſaſines were *de verbo in verbum* herein inſert, and as if the ſaid confirmation were granted before taking of ſaſine of the ſaid lands and others above wadſet, with the pertinents, albeit the ſame be not ſo done thereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid confirmation, and likewiſe with all faults, nullities, and imperfections, if any be, contained in the ſaid rights, his Majeſty, with conſent foreſaid, has diſpenſed, and for him and his royal ſucceſſors, by theſe preſents, not only diſpenſes, but alſo renounces and diſcharges the ſame, in favours of the ſaid W. M. his ſaid ſpouſe, and their foreſaids, for ever, in all time coming; ſaving and reſerving always to his Majeſty and his royal ſucceſſors, the feu-duties, blench-duties, and other duties, if any be, due and payable to them as ſuperior, forth of the ſaid lands and others above wadſet, with the pertinents, and contained in the ſaid W. M. of ——, or his predeceſſors and authors their rights and infeftments of the ſame, at any time before the ſaid confirmation; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, At times, the heritor renounces and diſcharges the reverſion, the ſtyle whereof, if it ſo fall out, you will find amongſt the *ſecurities*, being the fifth part of the work, and you may look the index for it; and it is fit, if the confirmation be not paſſed until the reverſion be renounced, that the confirmation be of the diſcharge or renunciation, as well as of the wadſet, by adding at the (6) figure the clauſe following:—*Together alſo with the diſcharge and renunciation granted by the ſaid M. I. B. of ——, to the ſaid W. M. his ſaid ſpouſe, and their foreſaids, of the reverſion of the ſaid lands and others above wadſet, with the pertinents, and declaring the ſame to appertain and belong to the ſaid W. M. and his foreſaids, heritably and irredeemably, in all time thereafter. as if the ſaid reverſion had never been made nor granted, dated the ſaid renunciation and diſcharge, the —— day of —— years, regiſtered the —— day of —— in the —— regiſters.*

SIGNATURE

SIGNATURE *of Confirmation of Lands wadset, being an improper Wadset, and usually passes by Confirmation, but may by Resignation, if the Party please.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and passed under his Majesty's great seal of the said kingdom, in due and competent form, ratifying, approving, and for his Highness and his royal successors perpetually confirming; likeas, his Majesty, with consent foresaid, by these presents, ratifies, approves, and, for his Highness and his successors, perpetually confirms to, and in favours of A. B. of ——, his heirs and assignees whatsoever, heritably, a contract of wadset made and passed betwixt J. H. of ——, with consent of C. D. his spouse, for all right of liferent, terce, and others whatsoever she had or could pretend to the lands and others after specified; and the said C. D. for herself, her own right and interest, with his consent, and both of them with one consent and assent, and he taking burden on him for her, to the effect therein mentioned, on the one part, and the said A. B. of —— on the other part, of the date —— day of —— and —— years, whereby the said J. H. and his said spouse, with one consent and assent foresaid, and taking burden, as said is, (for the sum of —— usual money of this realm, borrowed and received by the said J. H. from the said A. B. in manner therein expressed,) sold, annalzied, wadset, and disponed to the said A. B. his heirs and assignees whatsoever, heritably, all and haill his lands and others under written, *viz.* (*here insert the lands, and where they ly, as in the contract; and if the tithes be disponed with the lands, let them also be insert, and then say*) and the said J. H. with consent foresaid, bound and obliged him, his heirs and successors, duly and sufficiently to infeft and seise the said A. B. and his foresaids, heritably, in the said lands and others above specified, with the pertinents, by double infeftments and manner of holdings, to be holden *à me* or *de me*, in manner, with absolute warrandice, and under reversion, as is therein rehearsed; and farther, the said J. H. with consent foresaid, assigned, transferred, and disponed to the said A. B. and his foresaids, the writs and evidents of the said lands and others above disponed, with the pertinents, and also assigned to them the haill mails, farms, kains, customs, casualties, profits, and duties of the same, of the crop and year of God 17— years, and yearly and termly thereafter, in time coming, during the not redemption, but set in back-tack to the said J. H. and his foresaids, during the said not redemption, for payment of the yearly back-tack-duty therein specified, and under the penalty, and with the quality therein expressed, and obliged him and his foresaids, to make payment to the said A. B. and his foresaids, of the said principal sum of —— money above written, at the term of ——, or at any other term thereafter they pleased, upon the requisition therein specified, and under the penalty therein mentioned, attour performance, and also to do and perform the several other things therein expressed, together with the charter following on the said contract, precepts of sasine contained in both, and sasine following on both

contract

contract and charter, in the haill heads, obligements, articles, and clauſes thereof: And his Majeſty wills and grants, and for his Highneſs and his ſucceſſors, with conſent above ſpecified, decerns and ordains, that the foreſaid general confirmation is and ſhall be as valid, ſufficient, and effectual, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the ſaid contract, charter, and ſaſines, were, word by word, herein inſert, and as if the ſaid confirmation were granted before taking of ſaſine of the ſaid lands and others foreſaid, (8) albeit the ſame be not ſo done thereanent; and with all that may follow thereupon, or that can any ways be objected againſt the validity of the ſaid confirmation, and with all nullities, faults, and imperfections, if any be, contained in the ſaid right confirmed, his Majeſty, with conſent foreſaid, has diſpenſed, and for him and his royal ſucceſſors, by theſe preſents, diſpenſes for ever; ſaving and reſerving always to his Majeſty and royal ſucceſſors, the feu-duties, blench-duties, and other duties, if any be, due and payable to them forth of the ſaid lands and others foreſaid, and contained in the ſaid J. H. his right and infeftment of the ſame, at any time before the ſaid confirmation; and that the ſaid charter be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, 1. If the heritor, or the perſon to whom the wadſet is granted, be deceaſed, but *multo magis* the heritor, then let theſe words be inſert in the ſignature, at the figure (8), *viz. And deceaſe of the ſaid J. H.* (meaning the heritor); and if the other be dead, then ſay, *before deceaſe of the ſaid A. B.* and if both be deceaſed, then let the words added be, *before the deceaſe of the granter and receiver of the ſaid wadſet.*

Nota, 2. If the perſon to whom the wadſet is granted be dead, then the confirmation muſt be to his ſon and heir *nominatim*, thus: *Perpetually confirms to C. B. now of ——, eldeſt lawful ſon and heir ſerved and retoured to the deceaſed A. B of ——, and thereby having right to the wadſet after ſpecified, and to his heirs and aſſignees whatſoever, a contract of wadſet*, as in the ſignature.

It may be inquired here, what is the advantage the party has by this confirmation, after his father's deceaſe? The anſwer is clear: For if the right were not confirmed, he could not be vaſſal to the king, the heritor as well as the father being dead; and the father deceaſing vaſſal to the heritor, behoved to hold of his heir or other ſucceſſor; whereas, by this confirmation, albeit *a poſteriore*, the right is no more baſe but publick, and the heir of the perſon to whom the wadſet was granted, may ſerve heir, holding of the king, if immediate ſuperior to the heritor. But if the heritor be alive, it alters the caſe; for the wadſetter's heir may, upon the procuratory of reſignation contained in the contract, have reſignation made in his own favours, and thereupon his infeftment expede by reſignation.

SIGNATURE *of the former proper Wadſet, by way of Reſignation, and may be alſo a Rule to the improper, if ſo paſſed.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and

and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors, perpetually confirms to W. M. of ——, and I. H. his ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and to the heirs lawfully procreate, or to be procreated betwixt them, which failing, to the ſaid W. M. his other heirs and aſſignees whatſoever, heritably, under reverſion, in manner after ſpecified, all and haill (*here inſert the lands, and where they ly, as in the contract of wadſet, as alſo the tithes, if diſponed with the ſtock, and then ſay*) which lands and others above ſpecified, with the pertinents, pertained heritably of before to M. J. B. of ——, and were by him, and his procurators in his name, to that effect lawfully conſtitute, and patent letters contained in the contract of wadſet, made and paſſed betwixt the ſaid M. J. B. heritable proprietor of the ſaid lands and others foreſaid, on the one part, and the ſaid W. M. of —— and his ſaid ſpouſe on the other part, of the date the —— day of —— 17— years, duly and lawfully reſigned by ſtaff and baſton, as uſe is, in the hands of the Lords commiſſioners of his Majeſty's treaſury and exchequer of the ſaid kingdom, having his Highneſs's power and commiſſion to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments, as in the hands of his Highneſs, ſuperior thereof, at ——, the —— day of ——, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid W. M. and his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, to be holden in manner under written, and in ſuch due and competent form as accords, redeemable always, and under reverſion by the ſaid M. J. B. and his foreſaids, from the ſaid W. M. his ſaid ſpouſe, and their foreſaids, which failing, as ſaid is, by payment making to them of the ſum of —— uſual money of this realm, in manner, and upon the premonition ſpecified in the contract of wadſet, and other ſums therein mentioned, and doing and performing the other clauſes and conditions therein expreſſed, all here holden as repeated *brevitatis cauſa*, as authentick inſtruments taken thereupon in the hands of —— notary-publick, in themſelves more fully proport: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid W. M. and his ſaid ſpouſe, and their foreſaids, now, and in all time coming, at the manor-place, or principal dwelling-houſe of the ſaid lands of ——, (6) or upon the ground of any other part or portion of the ſaid haill lands and others above diſponed, with the pertinents, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid lands and others foreſaid, as if a particular ſaſine were taken by them upon each part and portion of the ſame, and by tradition of earth and ſtone allenarly, and without neceſſity of any other ſymbol to be uſed for that effect; and notwithſtanding of their diſcontiguity thereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid ſaſine, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for him and his royal ſucceſſors, diſpenſes for ever, to be holden, and for to hold the ſaid lands and others foreſaid, to the ſaid W. M. his ſaid ſpouſe, and their foreſaids,

which

which failing, as said is, of his Majesty and royal successors, superiors thereof, in fee and heritage for ever, at least during the said not redemption, by all rights, meiths, and marches of the same, old and divided, as the same ly, in length and breadth, in houses, biggings, *&c.* mosses, muirs, *&c.* mill, mill-lands, *&c.* doves, dove-coats, *&c.* court-plaint, *&c.* and with all and sundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the said W. M. and his said spouse, and their foresaids, which failing, as said is, at least during the said not redemption, to his Majesty and his royal successors, superiors thereof, the feu-duties, blench-duties, and other duties, if any be, due and payable to them forth of the said lands and others foresaid, and contained in the said M. J. B. and his predecessors and authors their rights and infeftments of the same, at any time before the said resignation, for all other burden, exaction, *&c.* redeemable always, and under reversion, in manner above expressed; and that the said charter be extended in most ample form, with all clauses needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Resignation in Favours of the Acquirer of Lands holden of the King.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and passed under his Majesty's great seal of his said ancient kingdom, in due and competent form, giving, granting, and disponing, and for his Highness and his royal successors perpetually confirming; likeas, his Majesty, with consent foresaid, by these presents, gives, grants, and dispones, and for his Highness and his successors, perpetually confirms to A. D. of ——, his heirs and assignees whatsoever, heritably and irredeemably, all and haill (*here insert the lands and others, and where they ly, as they are in the dispositive clause of the disposition, and then say*) which lands and others above disponed, with the pertinents, pertained heritably of before to the deceased M. J. B. of ——, and were by him, and his lawful procurators, in his name, and to that effect specially constitute, and patent letters contained in the right and disposition made by him to the said A. D. and his foresaids of the same, dated the —— of —— 17— years, purely and simply, by staff and baston, as use is, duly and lawfully resigned in the hands of the said Lords commissioners of his Majesty's treasury and exchequer, having power and commission to receive resignations in his Majesty's name, and thereupon to grant new infeftments, as in the hands of his Highness, lawful superior thereof, at —— the —— day of ——, in favours, and for new infeftment of the same, to be made and granted to the said A. D. and his foresaids, heritably and irredeemably, as said is, to be holden in manner under written, and in such due and competent form as accords, as authentick instruments taken thereupon, in the hands of —— notary-publick, in themselves more fully is expressed:

preſſed: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his royal ſucceſſors, decerns and ordains, that a faſine to be taken by the ſaid A. D. and his foreſaids, now, and in all time coming, at the manor-place, or principal dwelling-houſe of the ſaid lands of ——, (*follow forth the reſt of the diſpenſation in the former ſignature, from the figure of* (6), *till ye come to the* tenendas, *and then ſay*) to be holden, and for to hold all and ſundry the foreſaid towns, lands, and others above diſponed, with the pertinents, lying, as ſaid is, to the ſaid A. D. and his foreſaids, heritably and irredeemably, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in feu-farm, fee, and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, multures, *&c.* coals, coal-heughs, *&c.* doves, dove-coats, *&c.* cunnings, cunningaries, *&c.* hawking, hunting, *&c.* peats, turfs, *&c.* ſmiths, ſmithies, *&c.* court-plaint, herezald, *&c.* with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid A. D. and his foreſaids, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, (*here inſert the feu-duty* de verbo in verbum, *as in the diſponer's charter, and then ſay*) for all other burden, exaction, *&c.* and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Reſignation of Lands in Favours of the Heir of the Acquirer, who died after Reſignation, but before he was infeft.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his royal ſucceſſors, perpetually confirming; likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his royal ſucceſſors, perpetually confirms to A. B. eldeſt lawful ſon and heir ſerved and retoured to the deceaſed J. B. of ——, his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill, (*here inſert the lands and others contained in the diſpoſitive clauſe of the diſpoſition, and where they ly, and then ſay*) which lands, and others above diſponed, with the pertinents, pertained heritably of before to M. J. B. of ——, and were by him and his lawful procurators in his name, to that effect ſpecially conſtitute, and patent letters contained in the right and diſpoſition made by the ſaid M. J. B. to the ſaid deceaſed J. B. his heirs and aſſignees of the ſame, heritably and irredeemably, dated the —— day of —— 17— years, purely and ſimply, by ſtaff and baſton, as uſe is, duly and lawfully reſigned in the hands of the Lords commiſſioners of his Majeſty's treaſury and exchequer of the ſaid kingdom, having power and commiſſion to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments, as in the hands

of

of his Majesty, immediate lawful superior thereof, at —— the —— day of —— in favours, and for new infeftment of the same, to be made and granted to the said deceased J. B. of ——, his heirs and assignees whatsoever, heritably and irredeemably, to be holden of his Majesty and royal successors, in manner under written, and in such due and competent form as accords, as authentick instruments taken thereupon in the hands of —— notary-publick, in themselves more fully proport, and to which right and disposition, instrument of resignation following thereupon, and lands and others therein contained, the said A. B. as son and heir foresaid to his said deceased father, in whose favours the said disposition was granted, and the said resignation made, has sufficient, good, and undoubted right and interest: And his Majesty, with consent foresaid, wills and grants, and for his Highness and royal successors, decerns and ordains, that a sasine to be taken by the said A. B. and his foresaids, now, and in all time coming, at the manor-place, or principal dwelling-house of the said lands of —— (*here take in the dispensation for taking sasine in the signature, at the figure* (6), *and then say*) to be holden, and for to hold, all and sundry the said lands and others above disponed, with the pertinents, lying, as said is, to the said A. B. and his foresaids, of his Majesty and his royal successors, superiors thereof, in fee and heritage for ever, by all rights, meiths, and marches of the same, old and divided, as the same ly in length and breadth, in houses, biggings, *&c.* mosses, muirs, *&c.* mills, multures, *&c.* hawking, hunting, *&c.* coals, coalheughs, *&c.* court-plaint, *&c.* and with all and sundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the said A. B. and his foresaids, to his Majesty and his royal successors, superiors thereof, (*here insert the duty, whether feu or blench, according as the same are set down in the said disponer's charter under the great seal, whether consisting in victual, money-rent, customs, or whatever it be, with the terms of payment, as therein expressed; and if the lands hold feu, the duplication in the precise terms therein contained, and then say*) for all other burden, exaction, *&c.* and that the said charter be extended in most ample form, with all clauses needful; and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Lands in Favours of a Person who acquired the same from him, to whom disponed by the Proprietor, before Infeftment ensued, and made Resignation by virtue of the Procuratory in his Author's Disposition, to which he was assigned.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and passed under his Majesty's great seal of his said ancient kingdom, in due and competent form, giving, granting, and disponing, and for his Highness and his royal successors, perpetually confirming; likeas, his Majesty, with consent foresaid, by these presents, gives, grants, and dispones, and for his Highness

and his ſucceſſors, perpetually confirms to M. T. M. of ——, his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill (*here inſert the lands and others diſponed, and where they ly, as in the diſpoſition, and then ſay*) which lands and others above ſpecified, with the pertinents, pertained heritably of before to A. B. of ——, and were by him diſponed in favours of C. D. of ——, his heirs and aſſignees whatſoever, heritably and irredeemably, conform to the right and diſpoſition granted thereanent, dated the —— day of —— 17— years, which contains procuratory of reſignation, and divers other clauſes conceived in favours of the ſaid C. D. and his foreſaids; likeas, the ſaid C. D. by his right and diſpoſition, of the date the —— day of —— laſt bypaſt, for the onerous cauſes therein ſpecified, ſold, annalzied, and diſponed to the ſaid M. T. M. and his foreſaids, heritably and irredeemably, the lands and others above mentioned, with the pertinents, lying in manner foreſaid, and aſſigned, transferred, and diſponed in their favours the writs and evidents of the ſaid lands, and particularly the foreſaid right and diſpoſition made by the ſaid A. B. to him and his foreſaids of the ſame, procuratory of reſignation, and haill remanent heads, obligements, articles, and clauſes therein contained, in manner therein more fully expreſſed; and ſicklike, the ſaid lands and others foreſaid, with the pertinents, were by the ſaid A. B. and his lawful procurators, in his name, to that effect ſpecially conſtitute, and patent letters contained in the ſaid right and diſpoſition made by him to the ſaid C. D. and his foreſaids thereof, with all due humility and condign reverence, as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, duly and lawully reſigned in the hands of the Lords commiſſioners of his Majeſty's treaſury and exchequer, having power and commiſſion from his Highneſs to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments, as in the hands of his Highneſs, ſuperior thereof, at ——, the —— day of ——, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid M. T. M. as having right in manner foreſaid, and to his heirs and aſſignees above ſpecified, heritably and irredeemably, as ſaid is, to be holden of his Majeſty and his royal ſucceſſors, in manner under written, and in ſuch due and competent form as accords, as authentick inſtruments taken thereupon in the hands of —— notary-publick, in themſelves more fully proport: And his Majeſty, with conſent foreſaid, wills and grants, and for his Highneſs and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid M. T. M. and his foreſaids, now, and in all time coming, at the manor-place, or principal dwelling-houſe of the ſaid lands of ——, (*here take in the reſt of the diſpenſation, in the ſignature, page* 160, *at the* (6) *figure, and then ſay*) to be holden, and for to hold the ſaid lands and others above diſponed, with the pertinents, to the ſaid M. T. M. and his foreſaids, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in (4) fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided as the ſame ly, in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* ways, paſſages, *&c.* mills, multures, *&c.* hawking, hunting, *&c.* peats, turfs, *&c.* coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, *&c.* ſmiths, ſmithies,

ſmithies, *&c.* court-plaint, herezald, *&c.* with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid M. T. M. and his foreſaids, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, (*here inſert the* reddendo *of his author's charter*, de verbo in verbum, *and then ſay*) *pro omni alio onere*, &c. and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, If the lands hold feu, ſome writers, and rationally, inſert at the figure (4), in the *tenendas*, *in feu farm*; and if the lands hold blench, they will inſert theſe words. *in free blench*; and if a part hold feu, and another part blench, they will ſay, *in feu farm, free blench*; and if a part ſhould not only hold both theſe ways, but alſo another part, either ſimple ward or taxed, they will add theſe words alſo; and then, *reſpectivè, fee and heritage for ever*, as in the former ſignature, and whereof I form the next ſignature with that ſuppoſition, and in all the caſes.

SIGNATURE *of Lands, Patronages, and others by Reſignation, erected in a Barony holding Ward, Feu, and Blench, with ſome Animadverſions.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Highneſs and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors, perpetually confirms to A. B. of ——, (4) his heirs-male and aſſignees whatſoever, heritably and irredeemably, all and haill the towns, lands, and others after ſpecified, *viz.* (*here inſert all the lands, mills, patronages, tithes, and others, as they are in the diſpoſition, and where they ly; and if any of them be bounded, let it be inſert, and not omitted, and then ſay*) which lands, mills, mill-lands, patronages, tithes, and others above diſponed, with the pertinents, pertained heritably of before to C. D. of ——, and were by him and his lawful procurators, in his name, to that effect ſpecially conſtitute, and patent letters contained in the right and diſpoſition made by him to the ſaid A. B. and his foreſaids, heritably and irredeemably of the ſame, dated the —— day of —— 17— years, with all due humility and condign reverence, as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, duly and lawfully reſigned in the hands of the ſaid Lords commiſſioners of his Majeſty's treaſury and exchequer, having his Majeſty's power to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments, as in the hands of his Highneſs, ſuperior thereof, at —— the —— day of ——, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid A. B. of ——, his heirs-male and aſſignees above ſpecified, heritably and irredeemably, to be holden of his Majeſty and royal ſucceſſors, ſuperiors thereof, in manner under written, and in ſuch due and competent form as accords, as authentick inſtruments taken thereupon

upon in the hands of ——, notary publick, in themſelves more ſul'y proport: (6) And his Majeſty taking into his royal conſideration, the good and faithful ſervices done and performed to his Majeſty and his moſt royal progenitors, by the ſaid A. B. and his predeceſſors; therefore, his Majeſty, with conſent foreſaid, has diſunited, diſannexed, and diſjoined, and by theſe preſents, diſunites, diſannexes, and disjoins the ſaid towns, lands, mills, mill lands, manor-places, houſes, biggings, yards, orchards, patronages, tithes, and others, particularly and generally above diſponed, with the pertinents, from all earldoms, lordſhips, baronies, tenandries, and others to which they were formerly annexed and incorporated; and of new, has united, erected, annexed, created, and incorporated, and by theſe preſents, of new, unites, erects, annexes, creates, and incorporates the ſame in a haill and free barony, to be called, now, and in all time coming, the barony of ——, (8) and nominates, deſigns, and appoints the manor-place, or principal dwelling-houſe, built or to be built upon any part of the ſaid lands and others foreſaid, to be the principal meſſuage of the ſaid barony, and that a ſaſine to be taken by the ſaid A. B. and his foreſaids, now, and in all time coming thereat, or upon the ground of any other part or portion of the ſaid lands and others foreſaid, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid towns, lands, mills, mill-lands, patronages, tithes, and others particularly and generally above diſponed, with the pertinents, all now united, erected, annexed, and incorporated in an haill and free barony, in manner foreſaid, as if a particular ſaſine were taken by them, upon each part and portion thereof, albeit the ſame be not ſo done, and that by tradition and delivery of earth and ſtone, and without neceſſity of any other ſymbol to be uſed for that effect, and notwithſtanding the ſaid lands and others foreſaid ly diſcontiguous, and within ſeveral ſheriffdoms, or other juriſdictions or pariſhes, thereanent; and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid ſaſine ſo taken, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Highneſs and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden, and for to hold all and ſundry the ſaid towns, lands, mills, mill-lands, patronages, tithes, manor-place, houſes, biggings, yards, orchards, and others particularly and generally above diſponed, with the pertinents, lying as ſaid is, and all now united, erected, annexed, created, and incorporated in a haill and free barony, to be called now and in all time coming, the barony of ——, in manner above mentioned, to the ſaid A. B. of ——, and his heirs-male and aſſignees above ſpecified, heritably and irredeemably, as ſaid is, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in (6) ward, feu-farm, free-blench *reſpectivè*, and in fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* ways, paſſages, *&c.* mills, mill-lands, *&c.* hawking, hunting, fiſhings, coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, ſmiths, ſmithies, *&c.* court-plaint, herezald, *&c.* furk, foſſe, ſock, ſack, *&c.* pit, ſtocks, and gallows, *&c.* with free

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iſh and entry, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid A. B. and his foreſaids, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, the reſpective duties after ſpecified, *viz.* for the ſaid lands of ——, with the pertinents, the rights and ſervices uſed and wont, and for the ſaid lands of ——, the reſpective feu-duties under written, *viz.* (10) (*here inſert the reſpective feu-duties, whether the ſame conſiſt in victual or money, or both, with the cuſtoms (if any be) payable; and inſert the reſpective terms and times when payable, and likewiſe compearance at head-courts, or other courts, and all other ſervices, if any be, contained in the diſponer's infeftment, which muſt be the rule; and, in like manner, inſert the duplication, according to the ſaid infeſtment, whether it be of the whole feu-duty, victual, ſilver, and cuſtoms, or only of the ſilver duty, and as to which, the infeftment is ſtill the rule, and muſt be ſtrictly obſerved, and then ſay*) and for the ſaid lands of ——, with the pertinents, lying as ſaid is, (*here inſert the blench-duty, whatever it be, contained in the infeftment, and then ſay*) and for the ſaid advocation, donation, and right of patronage of the ſaid pariſh-kirks, and pariſhes of ——, and teinds, parſonage, and vicarage thereof, (*here inſert the duty contained in the infeftment of the diſponer, and then ſay*) *pro omni alio onere*, (11) &c. And that the ſaid charter be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Lands and others holden of the Crown, diſſolved from all Earldoms, Lordſhips, Baronies, and others, to which formerly annexed, and united in one Barony for the future, called* ——, *and appointing a Principal Meſſuage and a Saſine to be taken thereanent, or upon any other Part of the Barony, to be ſufficient for the whole. This alſo contains diſtinct Holdings, Feu-Blench, and Ward, and the ſimple Ward is taxed with a* de novo damus; *it likewiſe contains an ample Confirmation of Kirk-Lands, and of Lands holden of other Superiors, to guard againſt Forfeitures and liferent Eſcheats of theſe other Superiors: And, laſtly, It contains a confirmation to the Lady of her Jointure, by Contract of Marriage. And becauſe there are no Alterations betwixt this and the former Signature, except that the Lands holden formerly Simple Ward, are now taxed with a* de novo damus, *and the ſeveral Confirmations, I ſhall ſuppoſe the ſame Perſons in the former Signature to be the Diſponer and Acquirer*, brevitatis cauſa.

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and for his Highneſs and his royal ſucceſſors perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Highneſs and his ſucceſſors,

ceſſors, perpetually confirms to A. B. of ——, (*here take in the former ſignature, from the* (4) *figure, till ye come to the* (6), *and then ſay*) and moreover, his Majeſty, for many good, faithful, and ſingular ſervices done and performed to his Majeſty, and to his moſt royal progenitors, by the ſaid A. B. of ——, and his predeceſſors, and for certain other good cauſes and conſiderations moving his Highneſs, and of his Majeſty's certain knowledge and proper motive, and with advice and conſent foreſaid, has of new given, granted, and diſponed, and for his Highneſs and his royal ſucceſſors, perpetually confirmed; likeas, his Majeſty, by theſe preſents, of new gives, grants, and diſpones, and for his Highneſs and his ſucceſſors perpetually confirms to the ſaid A. B. of ——, and to his heirs-male and aſſignees above ſpecified, heritably and irredeemably, all and haill the ſaid towns, lands, and others above and after mentioned, *viz.* (*here take in all the lands and others, as in the diſpoſitive clauſe of the diſpoſition and ſignature, and then ſay*) together with all right, title, intereſt, claim of right, property, and poſſeſſion, as well petitor as poſſeſſor, which his (7) Majeſty and his royal progenitors or ſucceſſors had, have, or any ways may have, claim, or pretend thereto, in any time coming, or to the mails, farms, profits, and duties of the ſame, or any part thereof, of whatſoever years or terms bygone or to come, by reaſon of ward, nonentry, relief, marriage, and ſingle and double avails thereof, eſcheats, liferents, forfeitures, recognitions, diſclamations, purpreſtures, baſtardy, laſt heir, alienation of the haill or moſt part of the ſaid lands and others foreſaid, or granting rights of annualrent, wadſets, liferents, and other infeftments thereupon, equivalent to the ſaid major part, without conſent of his Majeſty and royal progenitors had or obtained thereto, and of whatſoever nature they may be of, want of confirmation, not payment of the feu-duties and other duties, and ſervices due and preſtable forth thereof, diminution of the old penny mail, amitting and tyning of the old writs and evidents of the ſaid lands and others foreſaid, or not production of the ſame, and new, in due time, reductions of infeftments, ſervices and retours, and other rights of the ſame, or by virtue of whatſoever clauſes irritant contained in the ancient or modern infeftments thereof, not fulfilling the conditions therein mentioned, or by virtue of whatſoever acts, laws, ſtatutes, and conſtitutions of the ſaid ancient kingdom of Scotland, made or to be made on the contrary, or by any other manner of way, right or title whatſoever, for whatſoever cauſe, fact, deed, crime, or occaſion bygone, preceding the day and date of theſe preſents; renouncing, transferring, and overgiving the ſame, with all action and inſtance *jure lite et cauſa*, competent, or that may be anyways competent to his Majeſty and ſucceſſors thereupon, in favours of the ſaid A. B. of —— and his foreſaids, now, and in all time coming, *cum pacto de non petendo*, and with ſupplement of all defects, faults, and imperfections whatſoever, as well not named as named, bygone, preſent, and to come, which his Majeſty, for him and his foreſaids, with conſent above ſpecified, will have as for expreſſed in the ſaid charter: and in like manner, his Majeſty, for the cauſes, and upon the conſiderations above ſpecified, and with conſent foreſaid, has not only diſunited and disjoined, and by theſe preſents, and charter foreſaid, diſunites and

disjoins

disjoins all and ſundry the ſaid towns, lands, mills, mill-lands, multures, and ſequels thereof, patronages, teinds, fiſhings, and others, particularly and generally above diſponed, with the pertinents, lying as ſaid is, from all other earldoms, lordſhips, baronies, and others whereof they were formerly parts and thereto annexed, but alſo has of new united, erected, annexed, created, and incorporated, and by theſe preſents, for his Majeſty and his royal ſucceſſors, of new unites, annexes, erects, creates, and incorporates the ſame towns, lands, mills, mill-lands, multures, and ſequels thereof, patronages, teinds, fiſhings, and others particularly and generally above mentioned, with the pertinents, in a haill and free barony, to be called now and in all time coming, the barony of ——, (*take in from the* (8) *figure in the former ſignature, till ye come to the* reddendo, *and then ſay*) giving therefor yearly, the ſaid A. B. and his foreſaids, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, the reſpective duties after ſpecified, *viz.* for the ſaid lands of ——, with the pertinents, the rights and ſervices uſed and wont, and contained in the original rights and infeftments of the ſame; but with this expreſs condition, proviſion, and declaration always, likeas, (6) by theſe preſents, it is expreſly provided and declared, and his Majeſty for himſelf and his royal ſucceſſors, with conſent above ſpecified, appoints, decerns, and ordains, and be it ſo expreſly provided, declared, appointed, decerned and ordained by the ſaid charter, that notwithſtanding the ſaid towns, lands, mills, mill-lands, and others immediately above mentioned, holden ward, as ſaid is, ſhall at any time hereafter happen to fall and become in the hands of his Majeſty or his royal ſucceſſors, by reaſon of ward or nonentry, and either of them, yet it ſhall be ſtill leiſome and lawful to, and in the power of the ſaid A. B. of ——, and his foreſaids, by themſelves or tenants, peaceably to enjoy, bruik, and poſſeſs the ſaid lands and others foreſaid, holden ward in manner foreſaid, and to intromit with, uplift, receive, uſe and diſpone upon the haill mails, farms, kains, cuſtoms, caſualties, profits and duties thereof in all time coming, during the haill ſpace, years, and terms of any ſuch ward or nonentry, for yearly payment to his Majeſty and royal ſucceſſors, of the ſum of —— uſual money of Scotland, at Whitſunday and Martinmas in winter, by equal portions, for the ward, the like ſum for the nonentry, as much for the relief, and the ſum of —— money foreſaid, for the marriage of the heir, ſingle and double avail thereof, when the ſaid caſualties ſhall happen to fall out and occur, (10) and to which reſpective duties above mentioned, his Majeſty, of his Highneſs's certain knowledge and proper motive, and by virtue of his prerogative royal, and for the cauſes, and upon the conſiderations above ſpecified, and with conſent foreſaid, has taxed, and by theſe preſents, taxes the ſaid ward, nonentry, relief, and marriage, and haill benefit and caſualty thereof for ever, in all time coming; and now, as if the ſaid ward, nonentry, relief, and marriage were already fallen out and occurred, and then as now, his Majeſty, for him and his foreſaids, and with conſent above ſpecified, by theſe preſents and charter foreſaid, gives, grants, and diſpones the ſaid ward, relief, nonentry, and marriage, and haill profits and caſualties of the ſame, in favours of the ſaid A. B. of ——, and his foreſaids, in all time coming,

for payment to his Majeſty and his foreſaids, of the taxed ward-duties above mentioned, inhibiting and diſcharging hereby, and by the ſaid charter, the Lords of his Majeſty's treaſury and exchequer, Lord treaſurer for the time being, his Majeſty's treaſurer-depute and their collectors and under-receivers, his Majeſty's advocate, and all others his Majeſty's miniſters and officers of ſtate, from all farther troubling, moleſting, charging or purſuing the ſaid A. B. of —— and his heirs or their ſucceſſors and aſſignees, for and upon the account of the ſaid ward, relief, nonentry, and marriage, or either of them, in any time coming, whenever the ſame ſhall happen to fall out and occur, except for the taxed ward duties above mentioned; and farther, his Majeſty, with conſent foreſaid, by theſe preſents, and charter to follow hereupon, gives full power, warrant, and commiſſion to the ſaid A. B. his heirs-male above ſpecified, and their ſucceſſors and aſſignees, to purchaſe brieves out of his Majeſty and his royal ſucceſſors their chancellary, in all time coming, for obtaining themſelves duly and lawfully ſerved heirs in ſpecial to their predeceſſors, who died laſt veſt and ſeiſed, and that in the towns, lands, and others above ſpecified, formerly holden ſimple ward, and now taxed in manner foreſaid, and the ſaid brieves duly and lawfully publiſhed, ſerved, and retoured to the ſaid chancellary, with precepts on the ſaid retours for obtaining them accordingly infeft and ſeiſed therein, notwithſtanding that the ſaid lands and others foreſaid, are holden of his Majeſty and his foreſaids, by ſervice of ward and relief, and notwithſtanding the ſaid heirs be minors for the time, and without neceſſity of any other warrant, commiſſions, or diſpenſations for that effect; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the ſame, or againſt the judges or inqueſt for any ſuch ſervice, or againſt the ſheriff, bailies of regalities and ſtewartries, or their deputes, for giving of ſaſine, his Majeſty, with conſent foreſaid, for him and his ſucceſſors, has diſpenſed, and by theſe preſents and charter foreſaid, diſpenſes for ever, and admit and declare the ſaid brieves, ſervices, retours, precepts, infeftments, and ſaſines, to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the ſame were raiſed, led, deduced, and done, after the ſaid heirs their attaining to their full and perfect age of twenty-one years complete, (8) and likewiſe giving yearly the ſaid A. B. and his foreſaids, to his Majeſty and his royal ſucceſſors, as ſuperiors, for the ſaid lands of ——, the reſpective feu-duties after ſpecified, *viz.* (*according to the former ſignature, from the figure of* (10), *and thereafter the blench* reddendo uſque ad finem, *I mean to the* (11) *figure, and then ſay*) Attour, his Majeſty, with conſent foreſaid, and for the cauſes, and upon the conſiderations above mentioned, ratifying, approving, and for himſelf and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, by theſe preſents, ratifies, approves, and for him and his foreſaids, with conſent above ſpecified, perpetually confirms to and in favours of the ſaid A. B. and his foreſaids, a charter dated the —— day of —— 17— years, made and granted by I. M. biſhop of ——, with conſent of dean and chapter, to and in favours of W. M. of ——, his heirs and aſſignees therein ſpecified, heritably, of all and haill, (*here inſert all the lands, and*

what

what elſe contained in the diſpoſitive clauſe of the charter; and if the tithes be diſponed with the lands qua decimæ inclusæ, *let them alſo be inſert in the preciſe words of the charter, and then ſay*) to be holden of the ſaid I. M. and his ſucceſſors in the ſaid ſee, in feu-farm, fee and heritage for ever, with the privileges therein expreſſed, and for payment of the feu-duty and other preſtations therein rehearſed, and ſaſine following on the ſaid charter, and whole charters and other rights of the ſaid lands and others foreſaid, granted by his Majeſty's royal progenitors, or by whatſoever perſon or perſons, laick or religious, downward by progreſs, until the ſame came in the perſon of the ſaid A. B. and his foreſaids, together with the ſaid A. B. his own diſpoſition and right of the ſame, granted to him and his foreſaids, by H. M. of ——, late heritor thereof, dated the —— day of —— 17— years, charter following thereupon, precepts of ſaſine contained in both, and inſtruments of ſaſine following on the ſame, as alſo the right and diſpoſition, dated the —— day of —— 17— years, granted by P. H. of ——, to the ſaid W. M. of ——, and his foreſaids, heritably, of all and haill the lands of ——, (*here inſert all the lands and others contained in the diſpoſitive clauſe*) to be holden of the ſaid P. H. his heirs and ſucceſſors, with the privileges, and for payment of the yearly duty and other preſtations ſpecified in the ſaid diſpoſition, with the charter following thereupon, precepts of ſaſine contained in both, and inſtruments of ſaſine following on the ſame, and whole rights of the ſaid lands downward, by progreſs, until the ſame came in the perſon of the ſaid A. B. together alſo with the right and diſpoſition made and granted by I. L. late heritor thereof, in favours of the ſaid A. B. and his foreſaids, of the ſame, heritably and irredeemably, to be holden of the granter's ſuperior, in manner, and for payment of the duty above expreſſed, dated the —— day of —— 17— years, charter following thereupon, precepts of ſaſine contained in both, and inſtruments of ſaſine following on the ſame; and in like manner, ratifying, approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for him and his foreſaids, with conſent above mentioned, perpetually confirms the contract of marriage made and paſſed betwixt the ſaid A. B. of ——, therein deſigned eldeſt lawful ſon to the deceaſed A. B. of ——, with conſent of his ſaid father, and the ſaid deceaſed A. B. for himſelf, with conſent of his ſaid ſon, and both of them with one conſent and aſſent on the one part, and Miſtreſs A. H. eldeſt lawful daughter to Sir I. H. of —— knight and baronet, with conſent of her ſaid father, and the ſaid Sir I. H. for himſelf, with her conſent, and both of them with one conſent and aſſent, and he taking burden in and upon him for her, to the effect therein mentioned, on the other part, of the date the —— day of —— 17— years, whereby the ſaid deceaſed A. B. and his ſaid ſon, with one conſent, as ſaid is, for the marriage then contracted, and thereafter ſolemnized betwixt the ſaid A. B. now of ——, and the ſaid Miſtreſs A. H. bound and obliged them, conjunctly and ſeverally, their heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid Miſtreſs A. H. in liferent, during all the days of her lifetime, in all and haill, (*here inſert the lands and o-*

thers liferented, as they are contained in the obligement to inſeſt in the contract, and then ſay) and that by double infeftments and manner of holdings *a nobis* or *de nobis*, and with warrandice in manner ſpecified in the ſaid contract, which contains divers other clauſes conceived in favours of the ſaid Miſtreſs A. H. together with the charter following on the ſaid contract, precepts of ſaſine contained in both, and inſtruments of ſaſine following on the ſame, in the haill heads, articles, clauſes, proviſions, and conditions contained in the haill charters, diſpoſitions, contract, and remanent writs and rights, particularly and generally above confirmed: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, declares, decerns, and ordains, that the foreſaid confirmation in the general, as well as in the ſpecial, is and ſhall be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes to the ſaid A. B. and his foreſaids, and to the ſaid Miſtreſs A. H. his ſpouſe, as if all the ſaid charters, ſaſines, diſpoſitions, contract of marriage, and other writs and evidents generally above confirmed, were, word by word, herein inſert and ingroſſed, and as if the ſaid confirmation were granted before taking of ſaſine of all or either of the ſaid lands, and deceaſe of the ſaid A. B. or his predeceſſors, and his or their authors, granters or receivers of the ſaid rights, their deceaſe, and as to the ſaid kirklands, as if the ſaid confirmation were granted before the year 17—, albeit the ſame be not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid confirmation, and with all nullities, faults, and imperfections, if any be, therein, or in the rights themſelves confirmed, his Majeſty, with conſent foreſaid, has diſpenſed, and for him and his royal ſucceſſors, with conſent above ſpecified, by theſe preſents, diſpenſes and renounces, over-gives and diſcharges the ſame, in favours of the ſaid A. B. now of ——, and his foreſaids, and of his ſaid ſpouſe for now and ever, ſaving and reſerving always to his Majeſty and his royal ſucceſſors, the feu-duties, blench-duties, and other duties, if any be, due and payable to them as ſuperiors, forth of the ſaid lands and others above ſpecified, the rights whereof are confirmed, as ſaid is, and contained in the ſaid rights and infeftments, at any time before the ſaid confirmation: And his Majeſty, with conſent foreſaid, faithfully promiſes, *in verbo principis*, to ratify the ſaid charter, in this preſent or next ſeſſion of parliament, willing his Majeſty's eſtates of parliament to ratify the ſame accordingly; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

SIGNATURE

SIGNATURE *of Lands fallen in the King's Hands by Recognition, formerly ward, and now taxed, containing also a Dispensation for taking Sasine at one Place for all, with Observations as to Feu and Blench Lands, if they occur, and if holden of other Superiors.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and passed under his Majesty's great seal of his said ancient kingdom, in due and competent form, giving, granting, and disponing, and for his Majesty and his royal successors, perpetually confirming; likeas, his Majesty, with consent foresaid, by these presents, gives, grants, and disponers, and for his Majesty and his successors, perpetually confirms to G. D. of ——, his heirs and assignees whatsoever, heritably, all and haill (*here insert the lands fallen in recognition, according as they are insert in the charter or sasine thereof, which may be detected from the chancellary or register of sasines, and then say*) which lands and others above disponed, with the pertinents, lying as said is, pertained heritably of before to M. J. B. of ——, holden by him and his predecessors and authors, of his Majesty and his most royal progenitors, by service of ward and relief, and now pertaining and belonging to his Majesty, and fallen and become in his Majesty's hands, and at his gift and disposition, by reason of recognition, laws and practique of his said Majesty's ancient kingdom, and inherent privilege of the crown, through and by the said M. J. B. and his said predecessors and authors, or one or other of them, their alienation and disposition thereof, or *major pars* of the same, heritably and irredeemably, or by granting wadsets, rights of annualrent and annuity, or security for money, or prestation of other facts and deeds, equivalent and correspondent to the said *major pars*, or by whatsoever other manner of way the same has fallen and become in his Majesty's hands, or in the hands of his said most royal progenitors, all here holden as for expressed, *brevitatis causa:* And his Majesty, with consent foresaid, wills and grants, and for his Majesty and his royal successors, decerns and ordains, that a sasine to be taken by the said G. D. and his foresaids, now and in all time coming, at the manor-place, or principal dwelling-house of the said lands of ——, or upon the ground of any other part or portion of the said lands, and others above disponed, with the pertinents, is and shall be as valid and sufficient a sasine to them, for all and sundry the said lands and others foresaid, as if a particular sasine were taken by them upon each part and portion thereof, and that by tradition, and delivery of earth and stone of the same, without necessity of any other symbol to be made use of for that effect, and notwithstanding they ly discontiguous, in divers parishes or jurisdictions, and without respect of any other part or place, designed and appointed for taking sasine thereof, by the original rights and infeftments of the same, before the date hereof; whereanent, and with all that may follow thereupon, or that can be any ways objected against the validity of the said sasine, his Majesty, with consent foresaid, has dispensed, and by these presents, for him and his royal successors, dispenses for ever, to be holden, and for

to

to hold the said towns, lands, and others above disponed, with the pertinents, to the said G. D. and his foresaids, of his Majesty and his royal successors, superiors thereof, in taxt-ward, fee, and heritage for ever, by all rights, meiths, and marches of the same, old and divided, as the same ly, in length and breadth, in houses, biggings, *&c.* mosses, muirs, *&c.* ways, passages, *&c.* mills, mill-lands, *&c.* coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, smiths, smithies, *&c.* court-plaint, *&c.* with free ish and entry, *&c.* and with all and sundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the said G. D. and his foresaids, to his Majesty and his royal successors, superiors thereof, the rights and services used and wont to be paid forth of the same, but with this express condition, provision, and declaration always; likeas, (*here take in the clause of the taxing in the signature, page* 169, *from the figure* (6), *to the figure* (10), *and then say*) for all other burden, exaction, *&c.* (9) and his Majesty faithfully promises, *in verbo principis*, to ratify, approve, and confirm the said charter, in this or next session of parliament, willing and consenting, that his Majesty's estates of parliament, ratify, approve, and confirm the same accordingly; and that the said charter be extended in most ample form, with all clauses needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, Some writers at times use, and not without advice of lawyers, to add the clause following, at the (9) figure in the former signature, *viz. And his Majesty, with consent foresaid, by these presents, assigns, transfers, and dispones to and in favours of the said G. D. and his foresaids, the haill contracts, dispositions, charters, infestments, procuratories, and instruments of resignation, precepts and instruments of sasine, decreets of declarator, and indentures of marches, and all other writs, evidents, rights, titles, and securities made and granted, by whatsoever person or persons, to the said M. I. B. or his predecessors or authors, of, upon, and concerning the said lands and others above disponed, with the pertinents, of whatsoever dates, tenors, contents, nature, or quality the same be of, all here holden as for expressed*, brevitatis causa, *and now pertaining and belonging to his Majesty, by reason foresaid, and all action of warrandice, and other action, pursuit, instance, and execution whatsoever, competent, or that may be competent to his Majesty or his foresaids thereupon, for now and ever.* And for my own part, I have used the like clause in gifts of forfeiture, and good reason for it; but in this, seldom or never; for the gift of the property being gifted, the right of the writs and evidents fall in consequence, and so writers may insert the clause, or not, at pleasure.

Nota, At times, kings feu out lands for payment of a certain feu-duty, *cum pacto de non vendendo et non contrahendo*, in which case, as well as ward, recognition is incurred, and in that case must be made the ground of the gift.

SIGNATURE *of Lands, as well Field as Burgage, fallen in the King's Hands, by Reason of Bastardy, with some Observations when they hold Ward or Burgage.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and passed under his Majesty's great seal of his said ancient kingdom, in due and competent form, giving, granting, and disponing, and for his Majesty and

and his royal ſucceſſors perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his ſucceſſors, perpetually confirms to A. B. of ——, his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill (*here inſert all the field-lands, as alſo ſuch tenements, yards, and others, as belonged to the perſon deceaſed, whom I call W. M. of* ——, *according as the lands are deſigned, and the tenements, yards, and others bounded by the defunct's infeftments, and then ſay*) which lands, tenements, yards, and others above diſponed, with the pertinents, lying and bounded, as ſaid is, pertained heritably of before to W. M. of ——, and now appertain and belong to his Majeſty, and are fallen and become in his Majeſty's hands, and at his gift and diſpoſition, by reaſon of baſtardy, laws, and practique of his ſaid kingdom, and inherent privilege of the crown, through and by the ſaid deceaſed W. M. his being born baſtard, and deceaſing baſtard, without heirs lawfully begotten of his own body, or diſpoſition lawfully made by him thereof, at any time in his lifetime, or by whatſoever manner of way the ſame has fallen and become in his Majeſty's hands, and at his gift and diſpoſition, here holden as for expreſſed, *brevitatis cauſa*, diſpenſing with the generality foreſaid, for ever: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid A. B. and his foreſaids, now and in all time coming; at the manor-place, or principal dwelling-houſe of the ſaid lands of ——, or upon the ground of any other part or portion of the lands and others above diſponed, with the pertinents, except what holden burgage, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid lands and others above mentioned, excepting in manner as is above excepted, as if a particular ſaſine were taken by them upon each part or portion thereof, albeit the ſame be not ſo done, and that by tradition and delivery of earth and ſtone, without neceſſity of any other ſymbol to be uſed for that effect, and notwithſtanding the ſaid lands and others foreſaid, ly diſcontiguous, and in divers pariſhes or juriſdictions; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for him and his royal ſucceſſors, diſpenſes for ever, to be holden, and for to hold all and ſundry the ſaid lands, tenements, yards, and others above diſponed, with the pertinents, to the ſaid A. B. and his foreſaids, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* ways, paſſages, *&c.* mills, multures, *&c.* hawking, hunting, *&c.* peats, turfs, coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, ſmiths, ſmithies, *&c.* with court-plaint, *&c.* free iſh and entry, and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid A. B. and his foreſaids, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, the reſpective duties under written, *viz.* for the ſaid tenements, yards, and others, lying within the ſaid burgh of ——, the

ſervices

ſervices of burgh uſed and wont, and for the haill remanent lands and others above diſponed, with the pertinents, the feu-duties, blench-duties, and other duties, if any be, due and payable to them forth of the ſame, and contained in the ſaid deceaſed W. M. of ——, and his prædeceſſors and authors their rights and infeftments of the ſame, at any time before the granting of theſe preſents, and at the terms and times therein expreſſed, for all other burden, exaction, *&c.* and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, As to the burgage-lands, ſome writers drew ſignatures of this nature, by way of preſentation, to be expede the quarter-ſeal, which was wrong, and does not parallel with that caſe where ſubjects are ſuperiors, which goes by preſentation indeed, becauſe ſovereignty cannot be ſubjected to hold of any ſubject, when the like, by forfeiture, baſtardy, laſt heir, *&c.* falls out; and in this caſe, the tenement, yards, and others within burgh, holding of the King, *in libero burgagio*, and not of the magiſtrates, who were but the King's baillies, muſt and ſhould paſs the whole ſeals, as all property, not coming in the King's hands, and holden of ſubjects, as ſaid is, do: only, in the charter under the great ſeal, the precept as to what burgage, ſhould be directed to the provoſt and baillies, who only can give ſaſine of burgage lands, and the town-clerk, by act of parliament, muſt be notary thereto; but as to all the other lands in the ſignature, not holden burgage, the precept in the charter is to be directed in the uſual way and form of chancellary, according as the lands ly, whether within a ſhire, regality, or ſtewartry.

But in caſe there be lands that hold not of the King burgage, but of the magiſtrates and council of the burgh, and their ſucceſſors in place and office, then, as to theſe, it goes by preſentation under the quarter-ſeal, as that holden of other ſubjects, and a ſtile whereof ye have apart amongſt what paſſes the quarter-ſeal only, for which ſeek the index.

If any of the lands fallen in the King's hands, by reaſon of baſtardy, (that of burgage excepted,) hold by ſervice of ward and relief, then the ſame, if it can be obtained by the King's favour, may be taxed, as to the ward, relief, nonentry, and marriage, according to the ſtile of the former ſignature, page 169.

There is an obſervation I reſolve to make upon lands feued out by the King, *cum maritagio*, and likewiſe upon lands feued out, without the marriage, but *cum pacto de non vendendo aut alienando, et non contrabendo*, which, with what I have ſeen in ſuch caſes, I leave in the laſt place of all the ſignatures paſſed in exchequer.

SIGNATURE *of Lands fallen in the King's Hands, as* ultimus hæres, *ſuppoſing they hold Blench or Feu, with ſome Obſervations when any of them hold Ward or Burgage, and how in that the Caſe alters.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his ſucceſſors, perpetually confirms to A. B. his heirs and aſſignees whatſoever,

ſoever, heritably and irredeemably, all and haill (*here inſert the lands, as they are in the laſt infeftment, and then ſay*) which lands and others above diſponed, with the pertinents, pertained heritably of before to the deceaſed J. H. of ——, and now pertain and belong to his Majeſty, and are fallen and become in his Majeſty's hands, and at his royal gift and diſpoſition, by reaſon of *ultimus hæres*, laws and inviolable practique of his ſaid Majeſty's ancient kingdom, and inherent privilege of the crown, by and through the ſaid J. H. his deceaſe, without heirs lawfully begotten of his own body, or any other perſon within the tenth degree of kin, who, *jure ſanguinis*, may ſucceed to him therein, or diſpoſition lawfully made by him thereof, to any other perſon or perſons, at any time in his lifetime, or by whatſoever other manner of way the ſame have fallen in his Majeſty's hands, or in the hands of his Majeſty's moſt royal progenitors, here, and in the ſaid charter, holden as for expreſſed, *brevitatis cauſa*, diſpenſing with the generality foreſaid for ever: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid A. B. and his foreſaids, now and in all time coming, at the manor-place, or principal dwelling-houſe of the ſaid lands of ——, (*here take in the reſt of the diſpenſation, as in the ſignature, page* 160, *at the* (6) *figure*, uſque ad finem; *only, in the* tenendas, *leave out theſe words*, at leaſt during the ſaid not redemption; *and in the* reddendo, *leave out the ſame words, as alſo theſe words*, redeemable always, and under reverſion, in manner above expreſſed, *becauſe the former ſignature is of a wadſet, but this of a free and abſolute gift.*)

Nota, If any of the lands hold ſimple ward, they may be taxed with a *de novo damus*, according to the ſtile of the ſignature, page 168; and if any of the lands hold burgage, obſerve the ſtile of the former ſignature, page 175.

SIGNATURE *by way of Confirmation of Lands holden of the King, Ward, Blench, or Feu.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, ratifying, approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for him and his ſucceſſors, perpetually confirms the right and diſpoſition, dated the —— day of —— 17— years, made and granted by A. B. of ——, heritable proprietor of the lands and others after ſpecified, to and in favours of M. I. B. of ——, his heirs-male and aſſignees whatſoever, heritably and irredeemably, of all and haill (*here inſert the lands, and where they ly, as in the diſpoſition, as alſo the tithes, if diſponed with the lands*) and whereby the ſaid A. B. bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid M. J. B. and his foreſaids, heritably and irredeemably therein, by double infeftments and manner of holdings, to be holden *a me* and *de*

me, and with abſolute warrandice, in manner therein expreſſed, and likewiſe aſſigned, transferred, and diſponed in favours of the ſaid M. J. B. and his foreſaids, the writs and evidents of the ſaid lands, and others above ſpecified, and mails and duties of the ſame, of the crop and year of God 17— years, and thereafter, in all time coming, together with the charter following upon the ſaid diſpoſition, and precepts of ſaſine contained in both, and inſtruments of ſaſine following, or competent to follow on the ſame, in the haill heads, articles, and clauſes thereof: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains the foreſaid general confirmation to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the ſaid diſpoſition, charter, and ſaſines were, word by word, herein inſert and ingroſſed, and as if the ſaid confirmation were granted before taking of ſaſine, albeit the ſame be not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, and with all nullities, faults, and imperfections, if any be, in the ſaid rights, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, ſaving and reſerving always to his Majeſty, and his royal ſucceſſors, the feu-duties, blench-duties, and other duties, if any be, due and payable to them, as ſuperiors, forth of the ſaid lands and others foreſaid, and contained in the ſaid A. B. of —— his rights and infeftments of the ſame, at any time before the ſaid confirmation, for all other burden, exaction, *&c.* and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Confirmation in Favours of a Liferentrix of Lands holden of the King.*

OUR SOVEREIGN LORD, *&c.* ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, ratifying and approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for his Majeſty and his ſucceſſors, perpetually confirms (4) the contract of marriage made and paſſed betwixt A. B. eldeſt lawful ſon to C. B. of ——, with the ſpecial advice and conſent of his ſaid father, and the ſaid C. B. for himſelf, with conſent of his ſaid ſon, and both of them with one conſent and aſſent, on the one part, and Miſtreſs J. H. eldeſt lawful daughter to S. W. H. of ——, with conſent of her ſaid father, and the ſaid S. W. H. with her conſent, and both of them with one conſent and aſſent, and he taking burden in and upon him for her, to the effect therein ſpecified, on the other part, of the date the —— day of —— 17— years, whereby the ſaid C. B. of ——, in contemplation of the marriage then contracted, and thereafter ſolemnized betwixt the ſaid A. B. his eldeſt lawful ſon, and the ſaid Miſtreſs J. H. bound and obliged him,

him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid Miſtreſs J. H. in liferent, during all the days of her lifetime, in all and haill (*here inſert all the lands and others provided to the gentlewoman by contract, as they are ſet down in the obligement to infeft, and where they ly, and then ſay*) and that by double infeftments and manner of holdings, the one thereof to be holden of the ſaid C. B. and his heirs and ſucceſſors, in free blench, for payment of one penny Scots money, at the feaſt and term of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and the other of the ſaid infeftments, to be holden of his Majeſty and royal ſucceſſors, as ſuperiors thereof, ſicklike, and as freely in all reſpects, as the ſaid C. B. held, or might hold the ſame himſelf, and by reſignation or confirmation, in the option of herſelf or friends, the acceptation of the one to be no ways prejudicial to the other, and to grant, ſubſcribe, and deliver to her, charters, containing precepts of ſaſine, and all other ſecurities requiſite thereanent, with warrandice againſt all evictions, in manner therein expreſſed, and whereby the ſaid C. B. obliged him and his foreſaids, that the ſaid lands and others above ſpecified, provided to the ſaid Miſtreſs J. H. in liferent, as ſaid is, were really worth of yearly free rent, attour feu and teind-duties, miniſters and ſchoolmaſters ſtipends, and all other ground-duties, due and payable to the ſuperior, or kirk, or titular of the teinds, the number and quantity of —— chalders victual, of the quality therein rehearſed, and —— ſilver rent, beſides the uſual cuſtoms and caſualties, ariages and carriages, and ſhould be ſo much worth, and pay no leſs the time of her entry thereto, in caſe at the pleaſure of God ſhe ſurvived her ſaid huſband; as alſo made, conſtituted, and ordained the ſaid Miſtreſs J. H. in liferent, during her ſaid lifetime, his undoubted ceſſioner and aſſignee, in and to the tacks, prorogations, valuations, and other rights and ſecurities made and granted to him, his predeceſſors, cedents, and authors, of, upon, and concerning the teind-ſheaves, and parſonage-teinds of the ſaid lands, and others foreſaid, and all action competent thereupon, during her ſaid lifetime, and, in caſe of expiration thereof, to purchaſe, procure, and obtain new tacks and rights thereof, from time to time, in her perſon, at leaſt, in the perſon of himſelf, his heirs and aſſignees, and to aſſign the ſame to her during the ſaid ſpace, and as a part of her ſaid jointure, and that free of any trouble or expence to her, (6) together with the charter following on the ſaid contract, and precepts of ſaſine contained in both, and inſtrument of ſaſine following, or competent to follow thereupon, in the haill heads, (8) obligements, articles, and clauſes thereof, conceived in favours of the ſaid Miſtreſs J. H. And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains the foreſaid general confirmation, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if the ſaid (9) contract of marriage, charter and ſaſine, were *de verbo in verbum*, herein inſert and ingroſſed, and as if granted before taking of ſaſine, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid confirmation or right, and with all nullities, faults, and imperfections, if any be therein, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for him and his royal ſucceſſors,

diſpenſes and renounces, overgives, and diſcharges the ſaid faults, nullities, and imperfections, in favours of the ſaid M. J. H. for ever, ſaving and reſerving always to his Majeſty, and his foreſaids, the feu-duties, blench-duties, and other duties, if any be, due and payable to them forth of the ſaid lands and others foreſaid, and contained in the ſaid C. B. and his predeceſſors and authors their rights and infeftments of the ſame, at any time before the ſaid confirmation; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, At times, huſbands augment their ladies jointures, by a bond of proviſion apart, relative to the contract of marriage, with this or the like ſubſumption, *viz.* That the lady's jointure is ſmall, and God having bleſſed him with a more opulent fortune than he had by his father, and being ſenſible of her virtues and good management, which was no ſmall help and riſe to his better being and acquiſition; therefore, and for the love and favour he has and bears towards her, he binds and obliges him, his heirs and ſucceſſors, duly and ſufficiently to infeſt and ſeiſe her in liferent, during all the days of her lifetime, and additional to her former jointure and proviſion by contract, in all and haill (*here inſert the lands, as in the bond of proviſion, and then ſay*) by double infeftments and manner of holdings, to be holden *a me* or *de me*, as in the right. Now, if ſuch a caſe fall out, it may be confirmed as well as the firſt jointure, either in one, or *ſeparatim*; and if in one, take in at the (6) figure in the former ſignature, and in theſe terms, *viz. As alſo a bond of proviſion granted by the ſaid A. B. to the ſaid Miſtreſs J. H. his ſpouſe, dated the —— day of —— 17— years, whereby he bound and obliged him, his heirs and ſucceſſors, for the cauſes, and upon the conſiderations therein expreſſed, and additional to her former jointure by contract of marriage, and to which alſo the ſaid bond is relative, duly and ſufficiently to infeft and ſeiſe the ſaid Miſtreſs J. H. his ſpouſe, in liferent, during all the days of her lifetime, in all and haill the lands of ——* (here take them in as in the bond, and where they ly, and then ſay) *and that by double infeftments and manner of holdings, to be holden* a me *or* de me, *in manner ſpecified in the ſaid bond.* After which, follow forth the ſtile of the former ſignature, *uſque ad finem*; only, with this alteration, whereas the former, after the (6) figure, bears, *together with the ſaid charter following on the ſaid contract*, add, *and bond of additional proviſion*; and, whereas the former bears, *and precepts of ſaſine contained in both*, ſay in this caſe, *and precepts of ſaſine contained in all of them.* But if the contract, charter, and ſaſine following thereupon were formerly confirmed, and ſo the bond of additional proviſion only to be confirmed, then the ſtile is eaſy, and runs thus: *Perpetually confirms*, (after the (4) figure,) *a bond of additional proviſion granted by A. B. now of ——, to Miſtreſs J. H. his ſpouſe, dated the —— day of —— 17— years, relative to their contract of marriage, dated the —— day of —— 17— years, and jointure thereby provided to her, whereby he, for the cauſes, and upon the conſiderations therein ſpecified, bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeſt and ſeiſe her in liferent, during all the days of her lifetime, and additional to her former jointure and proviſion, in all and haill* (here the lands and others are to be inſert, as in the bond, and then ſay) *and that by double infeftments and manner of holdings, to be holden* a me *or* de me, *in manner ſpecified in the ſaid bond, together with the charter following thereupon, precepts of ſaſine contained in both, and ſaſine following, or competent to follow on the ſame, in the haill heads*, (here take in the ſtile of the former ſignature, from the (8) figure, *uſque ad finem*; only, whereas in the former, at the (9) figure, it bears, *as if the ſaid contract of marriage*, ſay in this, *as if the ſaid bond of additional proviſion.*)

SIGNATURE

SIGNATURE *of Lands holden of the King, Feu, Blench, and Simple Ward, fallen in his Majesty's Hands by Forfeiture, most ample, with divers fine and necessary Clauses, including a Confirmation of all Rights and Infeftments granted to the Persons forfeited, or their Predecessors and Authors Base, and* ad hunc effectum *allenarly, that the Donatars may hold immediately of the Crown, and not of the Disponers, as formerly, but no Ways as to a Restitution thereto of the Person forfeited; and with a taxing of the Lands holden Ward.*

OUR SOVEREIGN LORD, *&c.* taking into his royal consideration, the great and eminent services done and performed to his Majesty, by L. C. E. M. T. O. and Captain H. C. and particularly in their expedition to ——, with the forces then under their command, and by his Majesty's special warrant, and how loyally they behaved themselves, with great success, against those then in arms, to his Majesty's great satisfaction, and firm establishment of the peace of his dominions, namely, of his ancient kingdom of Scotland, not without hazard of their lives; and his Majesty being willing to put a character of his royal bounty and favour upon them, as persons most worthy and deserving thereof; therefore, his Majesty, with the special advice and consent of (*here take in the consents according to the constitution of the exchequer for the time, and then say*) ordains a charter to be made and passed under his Majesty's great seal of the said ancient kingdom, in due and competent form, giving, granting, and disponing, and for his Majesty and his royal successors, perpetually confirming; likeas, his Majesty, with consent foresaid, by these presents, gives, grants, and dispones, and for his Majesty and his royal successors, perpetually confirms to the said L. C. E. M. T. O. and Captain H. C. their heirs and assignees whatsoever, heritably, and by tripartite division, all and haill, and all and sundry the lands, baronies, mills, mill-lands, teinds, patronages, heritable offices, and others after specified, sometime pertaining to the persons after named, or at least to which they might have succeeded, *jure sanguinis*, to their predecessors, *viz.* all and haill the lands and barony of Cr. lately pertaining to ——, (*here all the lands were taken in as in the infeftments, and also all and haill the lands and barony of —— lately pertaining to E. and in like manner, all and haill the lands and barony of ——, lately pertaining to ——*) which haill lands, baronies, mills, mill-lands, manor-places, houses, biggings, yards, orchards, woods, fishings, patronages, teinds, heritable offices, mosses, muirs, meadows, and others particularly and generally above disponed, with the pertinents, pertained heritably of before to the said —— of Cr. —— of E. and —— of Ca. at least to their predecessors, and to whom they are apparent heirs, and may *jure sanguinis* succeed, and now appertain and belong to his Majesty, and are fallen and become in his Majesty's hands, and at his royal gift and disposition, by reason of escheat and forfeiture laws and inviolable practique of his Majesty's ancient kingdom aforesaid, and inherent privilege of the crown, through and by the said —— their being in a justice-court, holden within the tolbooth of Edinburgh, upon the —— day of —— 17— years, by his Majesty's Lord high Justice-General, and Lords of

of Juſticiary of the ſaid kingdom, convicted and found guilty by an aſſize of famous and condign perſons, of the crimes of high-treaſon, rebellion, and leſe-majeſty committed by them, the way and manner ſpecified in the ſentence and doom of forfeiture, given and pronounced againſt them the ſaid day, in manner as is therein more fully expreſſed: And farther, his Majeſty, for the cauſes, and upon the conſiderations above ſpecified, and with conſent above mentioned, ratifying, approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, by theſe preſents, ratifies, approves, and for his Majeſty and his royal ſucceſſors, perpetually confirms, to and in favours of the ſaid donatars and their foreſaids, all and ſundry contracts, diſpoſitions, contracts of marriages, charters, infeftments, procuratories, and inſtruments of reſignation, precepts and inſtruments of ſaſine, ſervices, retours, and precepts thereon, and ſaſines following on the ſaid precepts, contracts and indentures of marches, tacks, aſſedations, valuations, prorogations, rights of annuities, of teinds, appriſings, adjudications, charters, and ſaſines following thereupon, grounds and warrants thereof, ſums of money therein contained, and thereby due of the law, reverſions legal and conventional, diſcharges and renunciations thereof, rights of annuity, annualrents, and other duties, yearly or termly due and upliftable forth of the ſaid lands, baronies, teinds, and others foreſaid, precepts of *clare conſtat*, and ſaſines following thereon, and generally all other writs, evidents, rights, and ſecurities whatſoever, and of whatſoever dates, tenors, nature, or quality the ſame be of, made and granted by whatſoever perſon or perſons, to and in favours of the ſaid ——, forfeited, as ſaid is, and of their predeceſſors, cedents and authors, or any ways introduced and conceived in their, or either of their favours, or in favours of their heirs and aſſignees, or led and deduced at their or either of their inſtances, or whereunto they derive right, either immediately or by progreſs, or that may be interpreted to appertain and belong to them, or in the perſon of any other for their uſe and behoof, and all back-bonds and other rights of truſt granted, or competent in relation thereto, of, upon, or concerning the ſaid lands, baronies, mills, mill-lands, woods, fiſhings, teinds, patronages, heritable offices, manor-places, houſes, biggings, yards, orchards, and others particularly and generally above diſponed, with the pertinents, in the haill heads, articles, and clauſes thereof, *ad hunc effectum* allenarly, for ſecuring the ſaid donatars, and their foreſaids, in the undoubted heritable and perpetual right thereof, in all time coming, and that they may hold the ſame *in capite* of his Majeſty and royal ſucceſſors, and not of any ſubject, from whom the ſame or any part thereof might have been acquired, to be holden *a me* or *de me*, and not publickly confirmed by his Majeſty before the ſaid ſentence and doom of forfeiture, but no ways as to the reſtoration of the ſaid perſons ſo forfeited, or their heirs, againſt the ſaid ſentence, which is always to ſtand in full force, ſtrength, and efficacy, conform to the tenor thereof, as to the ſaid lands and eſtates now gifted and diſponed to the ſaid three donatars, and their foreſaids, in manner above expreſſed: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains the foreſaid general confirmation, and for the end and purpoſe aforeſaid allenarly, to be as valid and ſufficient,

and

and of as great force, ſtrength, and effect to all intents and purpoſes, to the ſaid donatars and their foreſaids allenarly, as ſaid is, as if the haill writs and evidents above ſpecified, and generally confirmed in manner foreſaid, were *de verbo in verbum* herein inſert and ingroſſed, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, and with all faults, nullities, and imperfections, if any be, in all or either of the ſaid rights, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for him and his royal ſucceſſors, diſpenſes and diſcharges, overgives and renounces the ſame in favours of the ſaid donatars and their foreſaids, for ever in all time coming, and aſſigns and diſpones in their favours, the ſaid writs and evidents, and mails, profits, duties, feu-duties, and other rents, duties, and caſualties of the ſaid lands and eſtates, with the ſaid doom of forfeiture, and precedings reſting and in all time coming, all action competent to his Majeſty thereupon alſo for ever and in all time coming, and with power to them to purſue for exhibition and delivery, implement and fulfilling of the ſaid writs and evidents, and for payment of the ſaid duties and caſualties, and thereupon to grant diſcharges, and to do what elſe the ſaid forfeited perſons might have done therein before forfeiture, or as his Majeſty might have done at any time ſince, and before the granting of theſe preſents: Attour, his Majeſty, of his Majeſty's certain knowledge and proper motive, and by virtue of his prerogative royal, for the cauſes and upon the conſiderations above mentioned, and with conſent foreſaid, of new, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, of new, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to the ſaid L. C. E. M. T. O. and C. H. C. donatars above ſpecified, and to their heirs and aſſignees whatſoever heritably, by tripartite diviſion, as ſaid is, all and haill, and all and ſundry the lands, baronies, mills, mill-lands, teinds, patronages, heritable offices, and others above and after ſpecified, ſometime pertaining to the perſons above named, forfeited, as ſaid is, or at leaſt to which they might have ſucceeded, *jure ſanguinis*, to their predeceſſors, in manner foreſaid, *viz.* all and haill, (*here take in all the lands and others, as in the diſpoſitive clauſe of the ſignature, and then ſay*) together with all right, title, intereſt, claim of right, property, and poſſeſſion, as well petitor as poſſeſſor, which his (7) (*here take in the* de novo damus *and clauſe of diſſolution and new erection in a barony, as in the former ſignature, page* 167, *bearing this title,* Signature of lands and others holden of the crown, diſſolved from all earldoms, *&c. and that from the ſaid* (7) *figure, till ye come to the* (8) *figure, and then take in the diſpenſation for taking ſaſine, as in the preceding ſignature, page* 165, *bearing the title,* Signature of lands, patronages, and others by reſignation, *until ye come to the* tenendas, *and then ſay*) to be holden and for to hold the ſaid haill lands, baronies, mills, mill-lands, teinds, patronages, heritable offices, woods, fiſhings, manor-places, houſes, biggings, yards, orchards, annualrents, annuities, and others particularly and generally above diſponed, with the pertinents, lying as ſaid is, to the ſaid L. C. E. M. T. O. and C. H. C. by a tripartite diviſion, and their foreſaids, heritably, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in taxt-ward, feu-farm,

feu-farm, free blench, fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* ways, paſſages, *&c.* mills, mill-lands, multures, *&c.* hawking, hunting, coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, ſmiths, ſmithies, *&c.* quarry, lime, and ſtone, *&c.* with court-plaint, herezald, *&c.* furk, foſſe, *&c.* wrack, ware, *&c.* pit, ſtocks, and gallows, *&c.* together with free iſh and entry, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving yearly the ſaid L. C. E. M. T. O and C. H. C. and their foreſaids, by a tripartite diviſion, as ſaid is, to his Majeſty and his royal ſucceſſors, ſuperiors thereof, the reſpective duties under written, *viz.* for ſuch of the ſaid lands, baronies, and others foreſaid, as hold feu or blench of his Majeſty and his moſt royal progenitors, the feu-duties and blench-duties, due and payable to them forth thereof, and contained in the ſaid perſons, forfeited, as ſaid is, or their predeceſſors and authors, their rights and infeftments of the ſame, at any time before the ſaid ſentence and doom of forfeiture, and for the haill other lands, baronies, mills, mill-lands, and others above diſponed, with the pertinents, not holden feu or blench, but by ſervice of ward and relief of his Majeſty and his foreſaids, the rights and ſervices uſed and wont of before to be paid forth of the ſame: but with this expreſs proviſion, condition, and declaration always; likeas, his Majeſty, for him and his royal ſucceſſors, by theſe preſents and charter foreſaid, with conſent above ſpecified, expreſly provides and declares, ſtatutes and ordains, that albeit it ſhall happen the ſaid lands, baronies, mills, mill-lands, woods, fiſhings, teinds, patronages, heritable offices, and others, particularly and generally above diſponed, with the pertinents, or any part or portion thereof, or any annualrent, annuity, or or other duty whatſoever, due and payable forth of the ſame, holden ward of his Majeſty in manner foreſaid, to fall and become in the hands of his Majeſty or royal ſucceſſors at any time hereafter, by reaſon of ward or nonentry, or either of them; yet nevertheleſs, and notwithſtanding thereof, it ſhall be ſtill leiſome and lawful to, and in the power of the ſaid three donatars, by a tripartite diviſion, as ſaid is, and their foreſaids, by themſelves or their tenants, peaceably to poſſeſs, bruik, and enjoy the ſame, and intromit with the mails, farms, profits, and duties thereof, ſet, raiſe, uſe, and diſpone thereupon at their pleaſure, in all time coming, for payment yearly to his Majeſty and his royal ſucceſſors, in lieu and place of the former rights and ſervices, and during any ſuch ward and nonentry, or either of them, of the ſum of —— uſual money of the ſaid realm of Scotland, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, with the like ſum for the relief, and of the ſum of —— money foreſaid, for the marriage of the heirs, and ſingle and double avails thereof, when the ſame ſhall happen to fall out and occur, whereof each heir a third, as their predeceſſor ſhall happen to deceaſe, the intereſt being in a tripartite diviſion diſponed and conveyed by his Majeſty, and ſo ſhould bear but the like proportion of the taxt-ward duty, in manner above expreſſed, (*here take in the remaining part of the ſtile; add to the taxing and diſpenſation for the heirs to enter, notwithſtanding of their minority and nature of the holding, as in the former ſignature, page* 167, *bearing this title,* Of lands and others holden

holden of the crown, *and from the figure* (10), *until ye come to the figure* (8), *with this alteration*, viz. *whereas the former bears*, in favours of A. B. *or*, to A. B. his heirs and their ſucceſſors and aſſignees, *in this ſay*; in favours of the ſaid three donatars, by tripartite diviſion, and their foreſaids, and with power to the ſaid three donatars, their heirs, ſucceſſors, and aſſignees, to purchaſe brieves, *as in the former draught, till ye come to the ſaid* (8) *figure, and then ſay*) Moreover, his Majeſty conſidering that ſome of the ſaid lands above gifted and diſponed, may hold of ſome of his ſubjects, as immediate ſuperiors, whereof neither his Majeſty nor his ſaid donatars can at the time have certain knowledge, ſo that, in that caſe, the manner of conveyance aforeſaid, were not the habile way, as to ſuch of the ſaid lands and others as may be ſo holden; and his Majeſty being willing and deſirous to give and propoſe a ſuitable remedy; therefore, not only nominating and preſenting, likeas, his Majeſty, with conſent foreſaid, by theſe preſents, and for preventing any prejudice the ſaid other ſuperiors may ſuſtain, through want of vaſſals, for him and his royal ſucceſſors, nominates and preſents the ſaid three donatars, by tripartite diviſion, as ſaid is, and their foreſaids, in vaſſals and heritable tenants, to the ſaid other ſuperiors, in ſuch of the ſaid lands and others above mentioned, as hold of them, hereby requiring the ſaid other ſuperiors for the time, and their heirs and ſucceſſors in the right of ſuperiority thereof, to enter and receive the ſaid donatars and their foreſaids, in vaſſals and heritable tenants, to them therein, to be holden of the ſaid other ſuperiors, the ſame way and manner, and for payment of the like duties and ſervices, if any be, as the ſaid forfeited perſons, and their predeceſſors, cedents, and authors, or either of them, held the ſame, or paid and performed therefor, at any time before the ſaid ſentence and doom of forfeiture, and with the like privileges, freedoms, and immunities, as are contained and comprehended in the ancient or modern rights and infeftments of the ſame; and the ſaid donatars and their foreſaids, doing and performing that duty for their entry, to the ſaid ſuperiors, incumbent of the law; and his Majeſty, with conſent foreſaid, if need be, and that the ſaid donatars and their foreſaids deſire the ſame, ordains in the caſe foreſaid, and when ſuch lands and others as hold of the ſaid other ſuperiors are certainly known from the writs themſelves, or from the publick records and regiſters of the ſaid kingdom, particular preſentations of the ſame to be paſſed in exchequer, in due and competent form, and expede his Majeſty's quarter-ſeal, in form of chancellary, in favours of the ſaid donatars, and their foreſaids, and for which theſe preſents ſhall be to his Majeſty, Lord high treaſurer, and treaſurer-depute, or to the Lords of his Majeſty's treaſury for the time, and to the haill remanent Lords and others of his Majeſty's exchequer of the ſaid ancient kingdom of Scotland, a ſufficient warrant, and without neceſſity of any other warrant, gift or preſentation for that effect, under his Majeſty's royal hand, and diſpenſes therewith for ever. And farther, his Majeſty recommends to, and wills, that the Lords of his Majeſty's privy council, order the ſaid donatars and their foreſaids, their being put in the actual, real, and peaceable poſſeſſion of the ſaid lands, baronies, and others above diſponed, with the pertinents, fallen in his Majeſty's hand by forfeiture, as ſaid is, and particularly of the manor-places, office-houſes, and others belonging thereto,

and that the keys thereof be delivered up to them, or any having their power and warrant; and if the keys cannot be had, that patent doors be made to them, and they put in the actual poſſeſſion, as ſaid is: And his Majeſty farther orders and commands the lieutenant-general of his Majeſty's forces within the ſaid kingdom, to ſee the ſame put in execution accordingly, and for which theſe preſents ſhall be to him, and thoſe under his command, likewiſe a ſufficient warrant: And in like manner, his Majeſty hereby wills and declares his royal pleaſure to be, that the Lords of council and ſeſſion, within the ſaid ancient kingdom, in all actions and cauſes that may fall in, and depend before them, in relation to this preſent gift and donation, and extent and import thereof, and wherein any thing may ſeem dubious, or admit of a double ſenſe, may interpret the ſame, and put the beſt and moſt plenary and ample conſtruction thereupon, in favours of the ſaid donatars and their foreſaids, and to all intents and purpoſes, that either the congruity of ſtile, or energy and force of law will admit and allow of, and wherein, beſides the due courſe of law, they do his Majeſty acceptable ſervice. And, laſtly, his Majeſty faithfully promiſes, *in verbo principis*, to ratify this preſent ſignature, charter, and ſaſine to follow thereupon, and ſentence and doom of forfeiture whereupon the ſame proceeds, and haill procedure thereof, in this current or enſuing parliament, willing and requiring his Majeſty's eſtates of parliament to ratify, approve, and confirm the ſame accordingly; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *conſtituting a Perſon and his Heirs and Succeſſors, heritable Captains, Governors, Conſtables, and Keepers of a Caſtle belonging to the King, and diſponing the Rents and Caſualties pertaining to the ſame, with an additional Fee in their favours*, pro ſallario, *and with Power to ſubſtitute Deputes under them.*

OUR SOVEREIGN LORD, *&c.* ordains a letter of gift and charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, making mention, that his Majeſty taking into his royal conſideration, the great, eminent, and good and faithful ſervices done and performed by his Majeſty's right truſty and right well-beloved couſin and familiar counſellor J. M. of A. and his predeceſſors, to his Majeſty himſelf, and his moſt royal progenitors, as well the time of war as peace, to the great hurt and deterioration of the ſaid J. M. of A. and his foreſaids, their fortunes and eſtates, yea, and to the effuſion of their own, and thoſe that engaged with them and for them, in his Majeſty and his progenitors, in the ſaid ſervices, their blood; and his Majeſty, in recognizance and remuneration thereof, being always willing and ready to confer a new and freſh character of his royal bounty and favour upon the ſaid J. M. of A. and his ſucceſſors; therefore making, conſtituting, nominating, creating,

ting, and appointing, likeas, his Majeſty for himſelf and his royal ſucceſſors, with conſent foreſaid, by theſe preſents, makes, conſtitutes, nominates, creates, and appoints the ſaid J. M. of A. and his heirs-male and ſucceſſors, heritable captains, governours, conſtables, and keepers of his Majeſty's caſtle and fortalice of ——, lying within the ſheriffdom of ——, for ever in all time coming, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, for him and his foreſaids, with conſent above ſpecified, by theſe preſents, gives, grants, and diſpones, and perpetually confirms to the ſaid J. M. of A. and his foreſaids, the ſaid place and office of heritable captains, governors, conſtables, and keepers of the ſaid caſtle and fortalice of ——, with the caſtle-lands, precinct houſes, biggings, yards, orchards, mills, woods, fiſhings, rooms, poſſeſſions, moſſes, muirs, greens, outſets, inſets, annexes, connexes, dependencies, tenants, tenandries, ſervices of free tenants, office and juriſdiction of conſtable, and haill privilege and benefit thereof, parts, pendicles, and univerſal pertinents of the ſame, and all other fees and caſualties thereof whatſoever, as well not named as named, or that is or ſhall hereafter be known any ways to appertain and belong to the ſame, or that ever was annexed thereto, or poſſeſſed and enjoyed by any captain, governor, conſtable, or keeper thereof, at any time heretofore, all here holden as for expreſſed, *brevitatis cauſa*, and diſpenſing with the generality foreſaid, for ever, together with the feu, blench, and other duties and caſualties whatſoever, due and payable to his Majeſty and his royal ſucceſſors, by the perſons after named, his Majeſty's vaſſals and heritable tenants, and their heirs and ſucceſſors, forth of the lands and others after mentioned, *viz.* (*here inſert the lands and others deſigned for this purpoſe, and the preſent heritors and vaſſals their names and deſignations, and, if poſſible, from the regiſters, the duties themſelves, and then ſay*) and that yearly and termly, at the terms contained in the forenamed perſons, and their predeceſſors and authors their rights and infeftments of the ſame, as alſo here holden as for expreſſed *brevitatis cauſa*, and that as an additional fee and ſalary to the ſaid J. M. of A. and his foreſaids, for exercing the ſaid office, their entry to the ſaid office to be inſtantly, and to the benefit thereof this inſtant crop and year 17— years, and haill terms thereof, and yearly and termly thereafter, for ever, in time coming, together with all right, title, and intereſt that his Majeſty has, or he and his royal ſucceſſors may any ways claim or pretend to the ſaid feu, blench, or other duties due and payable forth of the ſaid lands and others above ſpecified, for the future, as being hereby annexed to the ſaid office, and never to be ſeparated or disjoined therefrom, but to remain and continue therewith, as well as what formerly appertaining and belonging thereto, in all time coming, reſerving always to his Majeſty and his royal ſucceſſors, for ever, in time coming, the ſuperiority of the ſaid lands and others immediately above written, ſo now annexed additionally to the ſaid office, and benefit of the duplication of the ſaid feu and blench duties, the firſt year of the entry of vaſſals, and benefit of the liferent eſcheats of the ſaid vaſſals, when they happen to fall, as being no ways herein comprehended, with full power to the ſaid J. M. of A. and his foreſaids, by themſelves or deputes, for whom they ſhall be anſwerable, to uſe and exerce the ſaid office of heri-

table captains, governors, conſtables, and keepers of the ſaid caſtle and fortalice of ——, and juriſdiction of conſtabulary within the ſaid caſtle, and haill bounds and limits belonging thereto, and to intromit with, uplift, aſk, crave, and receive not only the haill rents, duties, fees, cuſtoms, and caſualties formerly belonging thereto, but alſo the ſaid feu and blench-duties, and others now annexed to the ſame, and haill eſcheats, emoluments, and other benefit whatſoever that may ariſe, accreſce, and become due by the ſaid office and juriſdiction of conſtabulary of the ſaid caſtle, ſicklike, in the ſame manner, and as fully and freely in all reſpects, and to all intents and purpoſes, as any of the former conſtables, governors, captains, and keepers of the ſaid caſtle has done, at any time heretofore, or as any other conſtable within the kingdom, and by the laws and conſtitutions thereof, has done, do, or for the future may do in the like caſes, and to call and purſue for the ſaid rents, duties, fees, and caſualties, and obtain decreets thereanent, and poind the ground yearly for the ſaid feu and blench-duties, and others annexed to the ſaid office, as ſaid is, and to input and output deputes at pleaſure, as to the ſaid office, and to ſet and raiſe tenants as to any property belonging thereto; and, upon payment of the ſaid rents, duties, feu and blench-duties, fees, caſualties, and others foreſaid, as well formerly belonging to the ſaid office, as now annexed thereto, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe his Majeſty might have done therein himſelf, with conſent foreſaid, at any time before the granting of theſe preſents; reſerving always to his Majeſty and his royal ſucceſſors, in manner as is above reſerved: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken now and in all time coming, by the ſaid J. M. of A. and his foreſaids, at the ſaid caſtle of ——, and by delivery of earth and ſtone allenarly, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid caſtle, precinct, yards, orchards, lands, mills, fiſhings, feu and blench-duties, heritable offices, and others particularly and generally above mentioned, as if a particular ſaſine were taken by them upon each part and portion thereof, albeit the ſame be not ſo done, and notwithſtanding of the diſcontiguity, and without neceſſity of any other ſymbol than earth and ſtone, as ſaid is, and without reſpect to their being annexed to any earldom, lordſhip, barony or others, or of any other place formerly appointed and deſigned by the ancient or modern rights and infeftments for taking of ſaſine thereof; anent all which, and what elſe may follow thereupon, or that can be any ways objected againſt the validity of the ſaid ſaſine, his Majeſty, with conſent foreſaid, has diſpenſed, and for him and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden and for to hold the ſaid office of heritable captain, governor, conſtable, and keeper of the ſaid caſtle and fortalice of ——, caſtle, precinct-houſes, biggings, yards, orchards, mills, milllands, fiſhings, fees, feu and blench-duties, juriſdiction of conſtabulary, and others particularly and generally above mentioned, to the ſaid J. M. of A. and his foreſaids, of his Majeſty and his royal ſucceſſors, as ſuperiors thereof, in fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.*

ways,

ways, paſſages, *&c.* mills, mill-lands, *&c.* hawking, hunting, fiſhings, *&c.* peats, turfs, *&c.* coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, *&c.* with court of conſtabulary and privileges thereof, plaint, herezald, and amerciaments of the ſame, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid J. M. of A. and his foreſaids, to his Majeſty and his royal ſucceſſors, as ſuperiors thereof, above ſpecified, one penny Scots money, at the feaſt and term of Whitſunday, at the ſaid caſtle of ——, in name of blench-farm, if it be aſked allenarly, and doubling the ſaid blench-duty, at the entry of the heir thereto, and that in lieu and place and ſatisfaction of all other duty that can be required from them, for and upon the account of the ſaid entry, and likewiſe adminiſtrating juſtice as captains, conſtables, governours, and keepers aforeſaid, to and againſt all who may be concerned within the bounds and limits above mentioned, and being faithful to his Majeſty and his royal ſucceſſors in the diſcharge of the ſaid heritable office, in time coming, for all other burden, exaction, *&c.* And laſtly, his Majeſty faithfully promiſes, *in verbo principis*, to ratify this preſent gift and right, and likewiſe to diſſolve the ſaid office and juriſdiction, lands, mills, mill-lands, fiſhings, fees, feu-duties, blench-duties, and others above mentioned, as well formerly pertaining to the ſaid caſtle and office, as now annexed thereto, from the patrimony of his Majeſty's crown, and that in the preſent or enſuing parliament; willing and requiring his Majeſty's eſtates of parliament to ratify and diſſolve accordingly, but ſtill with the reſervation above expreſſed, conceived in favours of his Majeſty and royal ſucceſſors, in manner above rehearſed; and that the ſaid gift and charter be extended in the moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Kirk-lands erected in a Tenandry, by Reſignation, with a Diſpenſation to take Saſine at one Place for all.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents according to the conſtitution of the exchequer for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to his Majeſty's well-beloved couſin G. L. B. and to the heirs-male lawfully procreate, or to be procreate of his body, which failing, to his heirs-male whatſoever, which all failing, to his heirs whatſoever, the eldeſt daughter, or heir-female having always the preference, and ſucceeding without diviſion, and heirs-male of her body, and ſo forth downward, from daughter to daughter, whilſt there be daughters or heirs-female, and to the heirs-male of their bodies, which failing, to their

heirs

heirs whatſoever, in the order as aforeſaid, and in the terms after ſpecified, the ſaid daughters or heirs-female ſo ſucceeding, in the order, and according to the ſubſtitution above ſpecified, marrying a gentleman of the name of O. or one who, and heirs of the marriage, will aſſume the name of O. and arms of the family of B. to themſelves and their aſſignees, heritably and irredeemably, all and haill, and all and ſundry the towns, lands, mills, mill-lands, and others after ſpecified, *viz.* (*here inſert all to be included in the ſignature, according as they are ſet down and deſigned in the reſigner's charter and ſaſine, and then ſay*) which towns, lands, mills, mill lands, and others above ſpecified, with the pertinents, lying as ſaid is, pertained heritably of before to the ſaid G. L. B. and were by him and his lawful procurators in his name, to that effect ſpecially conſtitute, and patent letters contained in a particular and ſpecial procuratory of reſignation, granted and ſubſcribed by him thereanent, dated the —— day of —— laſt bypaſt, duly and lawfully reſigned by ſtaff and baſton, as uſe is, in the hands of the ſaid (*here inſert the conſtitutions of the treaſury and exchequer for the time, but curtly*) having power and commiſſion from his Majeſty, to receive reſignations, and thereupon to grant new infeftments, as in the hands of his Majeſty, lawful ſuperior thereof, at Edinburgh, the —— day of —— in favours, and for new infeftment of the ſame, to be made and granted to the ſaid G. L. B. and to the heirs-male of his body, which failing, to the other heirs-male and of tailzie above ſpecified, and their aſſignees whatſoever, heritably and irredeemably, to be holden of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in manner under written, and in ſuch due and competent form, as accords; but with this expreſs condition, proviſion, and declaration always, likeas, it is hereby expreſly provided and declared, and be it ſo provided and declared, by the ſaid charter, and ſaſine to follow thereupon, and is accordingly ſo appointed by the ſaid procuratory of reſignation, that failing of heirs-male of the ſaid G. L. B. his body, or otherways, as ſaid is, ſo that the daughters or heirs-female ſhall happen to ſucceed to the ſaid lands and eſtate, by the tailzie and ſubſtitution aforeſaid, that then, and in that caſe, as the eldeſt is to ſucceed without diviſion, ſo the daughter ſo ſucceeding, ſhall be holden and obliged to marry a gentleman of the name of O. or one who will aſſume the name of O. and the arms of the family of B. and the deſcendents of their bodies, to hold and retain the name of O. and if the eldeſt, and the perſon whom ſhe matcheth with, and the heir and other children of the marriage, fail in ſo doing, and thereby contraveen the preciſe terms of the ſaid ſucceſſion and ſubſtitution; then, and in that caſe, they ſhall *ipſo facto*, by way of exception or reply, and without neceſſity of declarator to follow thereupon, amit and tyne the benefit of the ſaid tailzie, and the next in the tailzie, and heirs-male of her body, ſhall have the preference, and ſucceed without diviſion, to the ſaid lands and eſtate, as heir to the perſon who deceaſed laſt veſt and ſeiſed therein, and as if ſhe had been the immediate perſon in the ſaid tailzie and ſubſtitution, or as if the eldeſt daughter or heir-female were naturally dead, without ſucceſſion of her body, and the huſband of the ſaid eldeſt daughter, in either caſe, excluded from, and deprived of a *jus mariti*, and the benefit of the courteſy introduced in favours of huſbands, by the laws of Scotland, or any other law or conſtitution whatſoever,

whatſoever, whereby they may claim right thereto, and ſo forth, from daughter or heir-female, to daughter or heir-female, whilſt there be daughters or heirs-female to ſucceed to the ſaid lands and eſtate; nor ſhall it be lawful to, or in the power of any of the ſaid daughters, or heirs-female, to alter, violate, or infringe the ſaid tailzie and ſubſtitution, or do any deed in prejudice of one another, by which the ſaid lands and eſtate may be affected or evicted in any ſort; but prejudice to the daughter or heir-female ſo ſucceeding, and obſerving the rules and nature of the ſaid tailzie and ſubſtitution, to provide her huſband to a competent jointure, not exceeding the third or half at moſt, and the younger children of the marriage, to ſuch competent portions and proviſions as the ſaid lands and eſtate may goodly bear, not exceeding four years rent of the free eſtate, deducing feu-duties, miniſters ſtipend, ceſs and publick burdens, and to be divided amongſt the ſaid younger children, as the parents, or any one of them on life for the time, and, failing of both by deceaſe, two of the neareſt friends on the father or mother's ſide ſhall judge expedient, and that by heritable bonds bearing infeftment, and a reverſion to the heir of the marriage, but no requiſition, that the eſtate may not be appriſed or adjudged therefor; and upon which conditions, proviſions, and declarations, the ſaid procuratory of reſignation was granted and ſubſcribed, reſignation by virtue thereof made, and charter and ſaſine appointed to follow thereupon, and theſe preſents alſo granted in order thereto, and the ſaid tailzie made in favours of the ſaid daughters, or heirs-female, failing of heirs-male, in manner foreſaid, and no other ways, as authentick inſtruments taken thereupon, in the hands of —— notary-publick, in themſelves more fully proport: And farther, his Majeſty, for the good and faithful ſervices done and performed by the ſaid G. L. B. and his predeceſſors, to his Majeſty and his moſt ſerene progenitors, has, with conſent above ſpecified, diſunited and disjoined, and hereby diſunites and disjoins the ſaid towns, lands, mills, mill-lands, fiſhings, and others particularly and generally above mentioned, lying, as ſaid is, from all lordſhips, baronies, and others whereunto they were formerly annexed, and of new, has united, erected, annexed, created, and incorporated, and hereby unites, erects, annexes, creates, and incorporates the ſame, in an haill and free tenandry, to be called now and in all time coming, the tenandry of J. and hereby deſigns and appoints the manor-place, and principal dwelling-houſe of J. to be the principal meſſuage of the ſaid tenandry; and ſtatutes and ordains, that a ſaſine to be taken thereat, or upon the ground of any other part or portion of the ſaid lands and others foreſaid, by the ſaid G. L. B. or his foreſaids, now and in all time coming, by delivering of earth and ſtone allenarly, without the neceſſity of any other ſymbol, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid lands, mills, mill-lands, fiſhings, and others above diſponed, with the pertinents, as if a particular ſaſine were taken by them upon each part and portion thereof, albeit the ſame be not ſo done, and notwithſtanding they ly diſcontiguous, and without reſpect to any other place formerly deſigned for taking of ſaſine; whereanent, and with all that may follow thereupon, or that can any ways be objected againſt the validity thereof, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for his Majeſty and his royal ſucceſſors, diſpenſes

for

for ever, to be holden, and for to hold all and ſundry the ſaid towns, lands, mills, mill-lands, manor-place, houſes, biggings, yards, orchards, woods, fiſhings, and others particularly and generally above diſponed, with the pertinents, lying in manner foreſaid, and all now united, annexed, created, and incorporated in a haill and free tenandry, called the tenandry of J. as ſaid is, to the ſaid G. L. B. and to the heirs-male of his body, which failing, to his other heirs-male, and of tailzie above ſpecified, in the order of the ſaid tailzie and ſubſtitution, and to their aſſignees, heritably and irredeemably, with and under the expreſs conditions, proviſions, and declarations above mentioned, and no other ways, of his Majeſty and his royal ſucceſſors, ſuperiors thereof, in free tenandry, feu and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly, in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* hawking, hunting, *&c.* peats, turfs, *&c.* coals, coal-heughs, doves, dove-coats, cunnings, cunningaries, *&c.* with court-plaint, herezald, free iſh and entry, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid G. L. B. and his foreſaids, which failing, as ſaid is, and their aſſignees, to his Majeſty and his royal ſucceſſors, ſuperiors of the ſaid towns, lands, mills, mill-lands, fiſhings, and others foreſaid, with the pertinents, and lying, as ſaid is, and all now united, erected, annexed, created, and incorporated, in a haill and free tenandry, in manner above expreſſed, the reſpective duties under written, *viz.* (*here inſert the particular* reddendo, *according to the former infeftments, and if any clauſes be therein, beſides the duties, let them be alſo inſert in the preciſe terms thereof, and then ſay*) for all other burden, exaction, *&c.* and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Confirmation of a Mortification, the Stile of which Mortification ye will find amongſt Securities, Part 5th, and the Index will lead you thereto.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here inſert the conſents, according to the conſtitution for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, ratifying, approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for his Majeſty and his royal ſucceſſors, perpetually confirms the mortification and religious and charitable writ and deed made, granted, and ſubſcribed by George Viſcount of Tarbat, Lord M'Leod and Caſtle-haven, heritable proprietor of the lands and others after ſpecified, with the pertinents, in favours of the perſons after named, for the uſe and ends after ſpecified, (*obſerving the rules, orders, conſtitutions, and appointments after expreſſed, and no other ways*) dated the ſaid mortification, at Edinburgh, the

the eleventh day of September 1686 years, whereby the ſaid noble Viſcount, for the glory of God, Father, Son, and Holy Ghoſt, and bleſſed Trinity, and undivided Unity, and in thankful acknowledgment of the great mercies ſpiritual and temporal beſtowed upon his Lordſhip, and from pure and perfect charity, for maintenance and ſuſtentation of the poor and indigent, for the worſhip and ſervice of God, his Creator, Redeemer, and Sanctifier, ſold, annalzied, gave, granted, diſponed, doted, and mortified, in the moſt ſure, firm, abſolute, and entire manner eleemoſinar, to and in favours of the very reverend Mr. Andrew Roſs, then miniſter at Tarbat, and the elders, for the time, of the kirk of Tarbat, and their ſucceſſors in the ſaid miniſtry and elderſhip, in being for the time, as truſtees and *ſide-commiſſaries*, for the uſe and behoof of the poor and others after named, perpetually thereafter, in all time coming, (obſerving the rules, orders, conſtitutions, and appointments after expreſſed, and no other ways,) all and haill an annuity of thirty-ſix bolls of bear, ſufficiently clean, callar and well dighted, market-met and merchant-ware, and to be met and meaſured with the meaſure of Linlithgow, yearly, to be uplifted and taken betwixt Yule and Candlemas, forth of all and haill his Lordſhip's quarterlands of Weſter Gaines, parts, pendicles, and pertinents thereof, lying within the pariſh of Tarbat, and ſheriffdom of Roſs, and then poſſeſſed by ——, and formerly pertaining to Innes of Inverbrakie, or forth of any part or portion thereof, and readieſt mails, farms, profits, and duties of the ſame, to be kilned and dried on the ground of the ſaid lands, by the tenants and poſſeſſors thereof, and tranſported from thence by the ſaid tenants, in their own ſacks, and on their own horſes, to the mills of Tarbat and Tarral, by equal halfs, and there grind in meal, and preferable to all other grindings, as out-ſucken, and without payment of any other dues, except what uſually paid to the ſervants by out-ſuckeners, and after grinding, to be tranſported by the ſaid tenants, to any part of the ſaid pariſh of Tarbat, to be appointed by the ſaid miniſter and elders, beginning the firſt year's payment of the ſaid annuity of the crop and year of God 1686 years, betwixt Yule and Candlemas then next, and ſo forth yearly thereafter, betwixt Yule and Candlemas for ever, and alſo all and haill the privilege and benefit of kilning and drying the ſaid bear on the ground of the ſaid lands, grinding the ſame at the ſaid mills as out-ſuckeners, and preferable to all other grindings, free of all multures and other dues, except what uſually paid to ſervants by out-ſuckeners, as ſaid is, and likewiſe with the privilege and benefit of having the ſame tranſported to and from the ſaid mills, in manner aforeſaid; and all which ſervices to be performed by the ſaid tenants and poſſeſſors of the ſaid lands thereafter, in all time coming, as a part of their ſervices as tenants and poſſeſſors of the ſaid lands, and without any payment or exaction from the ſaid poor, or the ſaid miniſter and elders upon their account; and the ſaid Viſcount bound and obliged him, and his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid Mr. Andrew Roſs miniſter, and his elders, and their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and *ſide-commiſſaries* foreſaid, for the uſe and behoof of the ſaid poor, and others after named, perpetually thereafter, in all time coming, obſerving the rules, orders, conſtitutions, and appointments after expreſſed, and no other ways, in all and haill the foreſaid annuity

nuity of thirty-six bolls of bear, of the quality, growth, and with the measure foresaid, yearly, to be uplifted betwixt Yule and Candlemas, as said is, forth of the said lands, with the pertinents, or any part or portion thereof, and readiest mails, farms, profits, and duties of the same, and also in all and haill the foresaid privilege and benefit of kilning and drying of the said bear on the ground of the said lands, grinding the same at the said mills, and by equal halfs in meal, as out-sucken, and of having the same transported to and from the said mills, in manner, and free of all payment of multures or other dues, excepting what usually paid to the servants of the mill, by out-suckeners, in manner above expressed, and that by double infeftments and manner of holdings, the one thereof to be holden of the said Viscount, and his heirs-male and of tailzie, contained in his rights and infeftments of his lands and estate of Tarbat, and his successors, and the other of the said infeftments, to be holden from him and his foresaids, of the immediate lawful superiors after named, *viz.* the said annuity, kilning, and drying, and transportation, of the right reverend father in God —— bishop of Ross, and his successors in that see, and the said privilege of grinding in meal, as out-suckeners, and free of payment of any multures or other dues, excepting, as said is, of the said Viscount and his foresaids, their immediate lawful superiors of the said mills of Tarbat and Tarral, and both the said infeftments, as well of his Lordship and his foresaids, as of their said superiors, *in puram eleemosinam, et in manum mortuam pro precibus et suffragiis*, of the poor after specified, and others after mentioned, having the benefit of the said mortification, in the most serious, pious, and devout manner that is possible, for his Majesty's sacred person, and his lineal and lawful successors well-being, health, wealth, prosperity, and happy and peaceable reign over his Majesty's ancient kingdom, and all others his Majesty's kingdoms, dominions, and territories, whilst sun and moon endureth in the firmament, and crowning them with an everlasting crown of glory thereafter, and likewise for the well-being and happiness of the said right reverend father, and his successors in the see, and for the true, holy, and catholick church, and the said Viscount, their patron, his lady, children, and successors, and all their benefactors, and that by resignation or confirmation, in the option of the said Mr. Andrew Ross minister, and elders of the said kirk of Tarbat, and their successors in place and office, the acceptation of the one of the said infeftments, to be no ways prejudicial to the other; and for that effect, to make, grant, subscribe, and deliver to them, as trustees and *fide-commissaries* foresaid, for the use and behoof of the said poor and indigent, sufficient dispositions, containing procuratories of resignation, charters containing precepts of sasine, and other securities requisite thereanent, with warrandice always, in manner specified in the said mortification, which likewise contains procuratory of resignation, for resigning the said annuity, privileges, services, and others above mortified, doted and disponed in the hands of the respective superiors, or their commissioners therein named, in favours, and for new infeftments thereof, to be made and granted to the said persons, as trustees and *fide-commissaries* aforesaid, and for the use and behoof of the said poor and indigent, to be holden of the said respective superiors, in manner, and for payment of the *reddendo* above expressed, and in such due and competent form as accords;

but

but with this expreſs condition, proviſion, and declaration always, likeas, by the ſaid gift of mortification, it is expreſly provided and declared, and by the reſignation and infeftments to follow thereupon, appointed to be provided and declared, that the ſaid miniſter and elders of the ſaid kirk of Tarbat, then preſent and to come, as truſtees and *fide-commiſſaries* aforeſaid, are, and ſhall be bound, obliged, and aſtricted to keep and obſerve the rules, orders, conſtitutions, and appointments particularly mentioned and ſet down in the ſaid mortification, and here holden as for expreſſed, *brevitatis cauſa*, together with the precepts of ſaſine contained in the ſaid mortification, and inſtrument of ſaſine following thereupon, in the haill heads, obligements, articles, clauſes, proviſions, declarations, reſervations, preferences, and conditions of the ſame: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains the foreſaid general confirmation to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, to the ſaid miniſter and elders, preſent and to come, as truſtees and *fide-commiſſaries* foreſaid, for the uſe and behoof of the ſaid poor and indigent, as if the ſaid gift and mortification were *de verbo in verbum* herein inſert, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, ſaving and reſerving always to his Majeſty, and his royal ſucceſſors, the feu-duties and other duties, if any be, due and payable to them, as ſuperiors, forth of the ſaid mills of Tarbat and Tarral, and contained in the ſaid Viſcount, the donor, his right and infeftments of the ſame, at any time before the ſaid confirmation; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, Ye will find the mortification itſelf, in the *fifth* part, amongſt other ſecurities, and the index will lead you to it; and becauſe of that, I judge it more tedious, than neceſſary, to ſet the rules and orders down at length.

SIGNATURE *of a Barony, comprehending ſeveral Lands, both Property and Superiority, upon the Gentleman his own Reſignation, and by virtue of a particular Procuratory for that effect, containing a Diſſolution, new Erection, Diſpenſation for taking Saſine at one Place for all,* de novo damus, *Burgh of Barony, weekly Market, and a Taxt from Simple Ward.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of his Majeſty's right truſty and well-beloved couſins and counſellors, (*here take in the conſents according to the conſtitution for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid kingdom, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming; likeas, his Majeſty, with conſent

foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to and in favours of S. J. M. of F. knight and baronet, and to the heirs-male of his body, which failing, to his heirs-male whatſoever, which all failing, to his heirs whatſoever, at leaſt, the eldeſt daughter without diviſion, and to the heirs-male of her body, bearing always the ſurname and arms of M. or aſſuming the ſame to themſelves and to their aſſignees, heritably and irredeemably, all and haill (*here inſert the lands as in the procuratory, and then ſay*) which lands and others above ſpecified, with the pertinents, pertained heritably of before to the ſaid S. J. M. and were by him, and his lawful procurators, in his name, to that effect ſpecially conſtitute, and patent letters contained in a particular and ſpecial letter of procuratory ſubſcribed by him thereanent, of the date, at Fortroſe, the twenty-fourth day of May 1677 years, duly and lawfully reſigned by ſtaff and baſton, as uſe is, in the hands of his Majeſty King Charles II. of ever bleſſed memory, his Majeſty's Lords of treaſury and exchequer for the time, having his Majeſty's power to receive reſignations, and thereupon to grant new infeftments, as in the hands of his ſaid ſacred Majeſty, immediate lawful ſuperior thereof, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid S. J. M. his heirs and aſſignees above ſpecified, heritably and irredeemably, as ſaid is, to be holden of his Majeſty and his royal ſucceſſors, immediate lawful ſuperiors thereof, in ſuch due and competent form as accords, at Edinburgh, the —— day of ——, as authentick inſtruments taken thereupon in the hands of —— notary-public, in themſelves more fully is expreſſed: And farther, Our ſaid Sovereign Lord, for the good and faithful ſervices done and performed by the ſaid S. J. M. and his predeceſſors, in times of peace and war, and as well abroad as at home, to his Majeſty and his Majeſty's moſt royal progenitors, of his Majeſty's certain knowledge, proper motive, and prerogative royal, has, with conſent above ſpecified, of new, given, granted, and diſponed, and for his Majeſty and his ſucceſſors, perpetually confirmed, and by theſe preſents and charter foreſaid, with conſent above written, of new, gives, grants, and diſpones, and for him and his royal ſucceſſors, perpetually confirms to the ſaid S. J. M. and the heirs-male of his body, which failing, to his heirs-male whatſoever, which all failing, to his heirs whatſoever, at leaſt the eldeſt daughter without diviſion, and to the heirs-male of her body, bearing the ſurname and arms of M. or aſſuming the ſame to themſelves and their aſſignees, heritably and irredeemably, all and haill the ſaid lands of ——, (*here inſert the lands*, ut ſupra, *and then ſay*) together with all right, title, intereſt, claim of right, property, and poſſeſſion, as well petitor as poſſeſſor, which his Majeſty and his predeceſſors or ſucceſſors had, have, or any ways may have claim, or pretend to the ſaid lands, barony, and others foreſaid, with the pertinents, or any part or portion thereof in time coming, or to the mails, farms, profits, and duties of the ſame, of whatſoever years and terms bygone or to come, by reaſon of ward, nonentry, relief, marriage, eſcheat, liferent, forfeiture, recognition, diſclamations, purpreſture, baſtardy, laſt heir, alienation of the haill or moſt part, granting infeftments of annualrent, or others effeiring to the ſaid *major pars*, reductions of infeftments, ſervices, or retours, not payment of the bygone feu-duty, diminution of

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the old penny mail, altering and changing of the nature of the holding of the ſaid lands, barony, and others foreſaid, from blench to ward, or from ward to blench again, amitting and tyning of the old evidents and ſecurities thereof, or not production of the ſame, or new in due time non-confirmation, or by virtue of whatſoever clauſe irritant, contained in the ancient or modern infeftments of the ſame, or by virtue of whatſoever acts of parliament, or other acts, laws, ſtatutes, and conſtitutions of the ſaid ancient kingdom, made or to be made in the contrary, or by whatſoever other manner of way, right or title whatſoever, for whatſoever cauſe, fact, deed, or occaſion bygone, preceding the day and date hereof, renouncing, transferring and overgiving the ſame, and all action and inſtance, *jure lite et cauſa*, competent, or that may be competent to his Majeſty and his royal ſucceſſors thereupon, to and in favours of the ſaid S. J. M. and his foreſaids, for now and ever, *cum pacto de non petendo*, and with ſupplement of all defects, faults, and imperfections whatſoever, as well not named as named, bygone, preſent, and to come, which his Majeſty, for him and his foreſaids, with conſent above ſpecified, will have as for expreſſed in the ſaid charter, and faithfully promiſes never to move any action, plea, or queſtion thereanent in time coming: Moreover, his Majeſty, with conſent foreſaid, and for the cauſes above ſpecified, not only has diſunited and disjoined, and by theſe preſents diſunites and disjoins the foreſaid lands, and others above ſpecified, with the pertinents, both property and ſuperiority, from all earldoms, lordſhips, baronies, and others, whereunto they were formerly annexed and incorporated, but alſo, by theſe preſents, unites, erects, annexes, creates, and incorporates the ſame lands, and others foreſaid, with the pertinents, both property and ſuperiority, as ſaid is, in a haill and free barony, to be called now and in all time coming, the barony of F. and ordains and appoints the manor-place, tower, and caſtle of F. to be the principal meſſuage of the ſaid barony, and that a ſaſine to be taken by the ſaid S. J. M. and his foreſaids, thereat, or upon the ground of any other part of the ſaid lands, with the pertinents, now and in all time coming, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid lands, barony, and others particularly and generally above diſponed, with the pertinents, as if a particular ſaſine were taken by them upon each part and portion thereof, albeit the ſame be not ſo done, and notwithſtanding they ly diſcontiguous; whereanent, and with all that may follow thereupon, or that can be objected againſt the validity thereof, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever: Moreover, his Majeſty conſidering how convenient and commodious it will be for the accommodation of ſtrangers and paſſengers, as well as natives, to have a weekly market holden and kept at the town of E. F. and the ſame to be erected in a free burgh of barony, in all time coming; therefore, and for increaſe of policy and commerce within his Majeſty's ancient kingdom of Scotland, his Majeſty, for the cauſes above written, alſo of his Majeſty's certain knowledge and proper motive, as ſaid is, with advice and conſent foreſaid, has made, conſtituted, created, and erected, and, by theſe preſents, makes, conſtitutes, creates, and erects to and in favours of the ſaid S. J. M. and his foreſaids, the foreſaid town and village of E. F. with the haill houſes, biggings,

gings, yards, woods, acres, tofts, crofts, out-ſets, in-ſets, parts, pendicles, and pertinents of the ſame, in a free burgh of barony, to be called in all time coming, the burgh of barony of E. F. giving, granting, and committing to the inhabitants and burgeſſes of the ſaid burgh of barony, preſent and to come, full and free liberty, privilege, power, and licence to buy and ſell wine, wax, ſalt, cloths of whatſoever colour or kinds, and all other merchandiſes whatſoever, and to have and hold within the ſaid burgh of barony, and liberties thereof, baxters, maltmen, brewers, wrights, coopers, litſters, ſkinners, taylors, cordners, ſadlers, ſmiths, fleſhers, fiſhers, and all other artificers, including maſons, belonging to any free burgh of barony, and free burgeſſes in the ſaid burgh, to make, create, and cauſe be ſworn, a market-croſs and tolbooth therein to erect and build, and keep up the ſame in all time coming; and alſo with power to the ſaid S. J. M. and his foreſaids, and to the burgeſſes and inhabitants of the ſaid burgh, to keep and hold a weekly market therein, each Wedneſday or Friday, as they ſhall find moſt profitable, for buying and ſelling of horſe, nolt, ſheep, fiſhes, fleſhes, meal, malt, victual, ſkins, hides, wool and linen cloths, butter, cheeſe, timber, and all other goods and merchandiſes whatſoever, proper, and by law allowable within any burgh of barony in the ſaid ancient kingdom; and with power alſo to the ſaid S. J. M. and his foreſaids, to nominate and appoint baillies, one or more, under them, within the ſaid burgh of barony, yearly, as alſo to create clerks, officers, and other members of court, neceſſary within the ſame, and for keeping and upholding of the ſaid burgh, and privileges thereof, and weekly market aforeſaid, as accords, and to uplift, uptake, and exact ſuch tolls and cuſtoms of all goods coming to the ſaid market, as is uſual in the like caſes, in any other burgh of barony within the ſaid ancient kingdom, and to apply the ſame to their own uſe; and, in like manner, with power to the ſaid S. J. M. and his foreſaids, by themſelves, or their ſaid baillies, to keep courts, tranſgreſſors to puniſh according to law, and to uplift and exact the fines, amerciaments, and eſcheats of court ariſing from any ſuch tranſgreſſions, and to apply the ſame alſo for their own behoof, and to cauſe the ſaid baillies, clerks, officers, and others, and other members of court, to be ſworn *de fideli adminiſtratione*, for the better government of the ſaid burgh of barony, and weekly market, and maintaining the rights and privileges thereof together; and, in like manner, with all other liberties, privileges, immunities, and caſualties whatſoever, as well not named as named, pertaining and belonging to a burgh of barony, by the laws and practique of the ſaid ancient kingdom, and as freely and fully in all reſpects, and to all intents and purpoſes, as any other burgh of barony within the ſaid kingdom uſes and enjoys, or may uſe and enjoy by virtue of their privileges, rights, and infeftments, to be holden, and for to hold the ſaid lands, barony, burgh of barony, and others particularly and generally above ſpecified, with the pertinents, lying as ſaid is, to the ſaid S. J. M. and his foreſaids, of his Majeſty and his Majeſty's royal ſucceſſors, in all time coming, in free barony, free burgh of barony, fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, mill-lands, multures, *&c.* doves, dove-coats, coals, coal-heughs, cunnings, cunningaries, *&c.*

hawking,

hawking, hunting, *&c.* with court-plaint, *&c.* furk, foſs, *&c.* infang-thief, outfang-thief, pit and gallows, with free iſh and entry, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid S. J. M. and his foreſaids, to his Majeſty and his Majeſty's ſucceſſors, immediate lawful ſuperiors of the ſame, the duties, rights, and ſervices uſed and wont; but with this expreſs condition, proviſion, and declaration always, likeas, by theſe preſents, it is, and by the ſaid charter ſhall be expreſly provided and declared, ſtatuted and ordained, that notwithſtanding, and when ever it ſhall happen, the ſaid lands, barony, burgh of barony, and others particularly and generally above ſpecified, with the pertinents, lying as ſaid is, or any part thereof, to fall in the hands of his Majeſty, or of his Majeſty's ſucceſſors, by reaſon of ward and nonentry, or either of them, yet nevertheleſs, the ſaid S. J. M. and his heirs and ſucceſſors, ſhall peaceably poſſeſs, bruik, and enjoy the ſame, by themſelves and their tenants, and to intromit with, uplift, uſe, and diſpoſe upon the haill mails, farms, profits, and duties thereof, in all time coming, for payment yearly to his Majeſty and his royal ſucceſſors, of the ſum of —— uſual money of the ſaid kingdom of Scotland, during the ward and nonentry, as much for the relief, and of the ſum of —— money foreſaid, for the marriage of the heir, and ſingle and double avails thereof, when the ſame ſhall happen to fall; and to the which ſums, his Majeſty, with conſent foreſaid, for him and his ſucceſſors, for the cauſes above ſpecified, has taxed, and by theſe preſents taxes the ſaid ward, nonentry, relief, and marriage, and haill benefits of the ſame in all time coming; and now as if the ſaid ward were already fallen, and the caſualties thereof occurred, and then as now, his Majeſty, with conſent foreſaid, has aſſigned and diſponed, and by theſe preſents, for him and his foreſaids, aſſigns and diſpones the ſame in favours of the ſaid S. J. M. and his foreſaids, in all time coming, inhibiting and diſcharging, and by theſe preſents and charter to follow hereupon, the Lords of his Majeſty's treaſury, comptrollery, collectors of his rents and new augmentations, and all others in the ſaid office for the time, and his Majeſty's treaſurer-depute, and the ſub-collectors and under-receivers, and his Majeſty's advocate, and other miniſters of ſtate, and others his Majeſty's donatars, no ways to trouble, moleſt, or purſue the ſaid S. J. M. or his foreſaids, for the ſaid ward, relief, nonentry, and marriage, except for the taxt-duty above written, in time coming; and ſicklike, it ſhall be lawful, and his Majeſty, with conſent foreſaid, gives full power and warrant to the ſaid S. J. M. and his foreſaids, to enter to the ſaid lands, barony, burgh of barony, and others foreſaid, with the pertinents, in all time coming, by brieves forth of his Majeſty's chancellary, and to obtain themſelves ſpecially ſerved and retoured heirs therein, and thereupon infeft, notwithſtanding that the ſame holds by ſervice of ward and relief, as ſaid is, and that they be minors for the time, and without neceſſity of any other warrant or diſpenſation for that effect: And his Majeſty, with conſent foreſaid, admits and declares the ſaid ſervices, retours, precepts, and infeftments to follow thereupon, to be as ſufficient, as if the ſame were done after the ſaid heirs their attaining to their full and perfect age of twenty-one years complete, albeit the ſame be not ſo done; whereanent, and with all objections, purſuit and inſtance, competent,

tent, or that may be competent againſt the ſame, or againſt the inqueſt that paſs upon the ſaid ſervices, judges therein, whole members of court, and giver of the ſaid ſaſines, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever: And his Majeſty, *in verbo principis*, faithfully promiſes to ratify and approve the ſaid charter, in this preſent current or next parliament, willing and requiring his Majeſty's eſtates of parliament to ratify the ſame accordingly; and that the ſaid charter be extended in the moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of ſeveral Lands diſponed and reſigned by the Heritor for himſelf, and as having Power and Faculty, by the Rights formerly granted and taken by him to his Children, to diſpone, &c. in favours of a Son of the third Marriage, and Heirs-male of his Body, which failing, to the other Perſons therein ſpecified, and their Heirs therein mentioned, in the Terms therein expreſſed, which failing, or contravening the Conditions, the Eſtate is mortified, of a pure Stile, the Rules and Orders and Conſtitutions whereof, omitted here, and referred to the Mortification itſelf,* brevitatis cauſa, *but to be found in the fifth Part, and the Index will direct you thereto, and the more full and better whereof hardly to be found.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents, according to the conſtitution for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually, confirming; likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to G. C. lawful ſon to Captain A. C. of K. his Majeſty's maſter-ſlater, procreate betwixt him and E. L. his preſent ſpouſe, and to the heirs-male lawfully to be procreate of the ſaid G. C. his body, which failing, to the heirs-male lawfully procreate or to be procreate of the ſaid Captain A. C. his body, in this preſent marriage, which failing, to the heirs-male lawfully to be procreate of the ſaid Captain A. C. his body in any other marriage, which failing, to the heirs whatſoever, lawfully to be procreate of the ſaid G. C. his body, the eldeſt always having preference without diviſion, which failing, to the heirs whatſoever of the ſaid Captain A. C. his body, in this preſent marriage, which failing, to the heirs whatſoever of the ſaid Captain A. C. his body, in any other marriage, the eldeſt having ſtill preference, without diviſion, as ſaid is, which failing, to the heirs-male lawfully procreate, or to be procreate betwixt A. C. alſo ſon of the ſaid Captain A. C. and C. S. his ſpouſe, which failing, to the heirs-male of the ſaid A. C. his body, in any other marriage, which failing, to the heirs whatſoever, lawfully procreate or to be procreate of the ſaid A. C. his body, in this preſent marriage, which failing, to the heirs whatſoever of his body

in

in any other marriage, the eldeſt female having always the preference, without diviſion, which failing, to A. N. ſon to C. N. born in the kingdom of Denmark, procreate betwixt him and S. C. ſiſter to the ſaid A. C. and to the heirs-male lawfully to be procreate of the ſaid A. N. his body, which failing, to the heirs whatſoever lawfully to be procreate of the ſaid A. N. his body, the eldeſt of the females ſtill ſucceeding, without diviſion, and that with and under the expreſs reſervations, proviſions, conditions, limitations, and reſtrictions after mentioned, and no other ways, and failing of heirs-male and female procreate, and deſcending of the ſaid G. C. his body, as alſo of the ſaid Captain A. C. his body, in this or any other ſubſequent marriage, and of the body of the ſaid A. C. his other ſon, in this preſent or future marriages, and of the ſaid A. N. and heirs of his body, in manner above ſpecified, then, and in that caſe, for the cauſes and upon the conſiderations after expreſſed, now as then, and then as now, giving, granting, diſponing, doting, and mortifying, and by theſe preſents, gives, grants, diſpones, dotes, and mortifies, in the moſt firm, ſure, abſolute, and effectual way and manner eleemoſinar, to and in favours of the moderator and brethren of the exerciſe of the preſbytery of P. for the time being, and their ſucceſſors, from time to time, moderators and brethren of the exerciſe of the ſaid preſbytery of P. for ever thereafter in all time coming, as truſtees and *fidecommiſſaries*, for the uſe and utility of the poor and others after named, and obſerving the rules, orders, conſtitutions, and appointments after expreſſed, and no other ways, all and ſundry the lands and others after ſpecified, *viz.* (*here the lands were inſert, according to the ſaid Captain A. C. his charters and ſaſines,*) and a part whereof are under reverſion, by payment of twenty thouſand merks, and other ſums contained in the ſaid reverſion, and upon doing and performing the other clauſes and conditions therein mentioned, but omitted, as extraneous to ſtile, which lands, mills, mill lands, and others above diſponed, with the pertinents, lying as ſaid is, pertained heritably of before to the ſaid Captain A. C. and at his gift and diſpoſition, for himſelf, and by virtue of the power and faculty contained in the rights and infeftments thereof, granted by him to any of his ſons, or conceived in their favours, and were by him, and his lawful procurators, in his name, to that effect ſpecially conſtitute, and patent letters contained in the right and diſpoſition made by him to the ſaid G. C. his ſon, and to the heirs-male of his body, which failing, to the other heirs-male and of tailzie above mentioned, and failing of heirs-male and female procreate and deſcending of the ſaid G. C. his body, and of the ſaid Captain A. C. his body, in this or any other marriage, and of the ſaid A. C. his body, in this preſent or ſubſequent marriage, and failing of the ſaid A. N. and heirs of his body, in manner foreſaid; then, and in that caſe, for the glory of God, Father, Son, and Holy Ghoſt, holy and bleſſed Trinity, and undivided Unity, and in thankful acknowledgment of the mercies and benefits ſpiritual and temporal beſtowed upon the ſaid Captain A. C. and from pure and perfect charity, for maintenance and ſuſtentation of the poor and indigent, for the worſhip and ſervice of God, our Creator, Redeemer, and Sanctifier, now as then, and then as now, failing as ſaid is, to and in favours of the moderator and brethren of the exerciſe of the preſbytery of P. for the time being, and of their ſucceſſors from time to time, modera-

tors and brethren of the exercise of the said presbytery of P. for ever thereafter, in time coming, as trustees and *fide-commissaries*, for the use and to the effect above and after specified, of the said lands, mills, and others above mentioned, of the date the third day of March last bypast, duly and lawfully resigned by staff and baston, as use is, in the hands of the Lords commissioners of his Majesty's treasury and exchequer, having power to receive resignations in his Majesty's name, and thereupon to grant new infeftments, as in the hands of his Majesty, immediate lawful superior of the said lands, mills, and others foresaid, at Edinburgh, the —— day of —— in favours, and for new infeftment thereof, to be made and granted to the said G. C. and heirs-male lawfully to be procreate of his body, which failing, to to the other heirs-male and of tailzie above mentioned, *respectivè* and *successivè*, the one after the other, and in the order and with the preference aforesaid, and likewise with and under the express reservations, provisions, conditions, limitations, and restrictions under written, and no other ways, and failing of heirs-male and female procreate and descending of the said G. C. his body, as also of the said Captain A. C. his body, in this or any future marriage, and of the said A. C. his body, in this or any subsequent marriage, and failing of the said A. N. and heirs of his body, in manner foresaid, then, and in that case, in favours, and for new infeftment of the said lands, mills, mill-lands, teinds, and others above written, to be made and granted to the said moderator and brethren of the exercise of the said presbytery of P. for the time being, and their successors from time to time, moderator and brethren belonging to the exercise of the said presbytery of P. perpetually thereafter, in all time coming, as trustees and *fide-commissaries*, for the use and behoof of the poor, and others after mentioned, to whom, in that case, the said lands and others foresaid, are mortified and disponed, in the most sure, firm, absolute, and effectual manner eleemosinar, as said is, and observing the rules and orders, constitutions and appointments after expressed, and no other ways, to be holden of his Majesty and his royal successors, in such due and competent form as accords; and which right and disposition above specified, and other right above mentioned, with the resignation following, and infeftment to follow thereupon, are allenarly made and granted by the said Captain A. C. in favours of the said G. C. his son, and heirs-male of his body, which failing, to the other heirs of tailzie and provision above rehearsed, with and under the express reservations, provisions, conditions, limitations, and restrictions after mentioned; and failing heirs-male and females of the said G. C. his body, and of the said Captain A. C. his body, in this or any other marriage, as also of the said A. C. and of the said A. N. their bodies, as said is, in favours of the said moderator and brethren of the exercise of the said presbytery of P. for the time being, and of their said successors in the said offices, as trustees and *fide-commissaries* for the said poor, and others after named, thereafter for ever, with and under the provisions and conditions after-rehearsed, and observing the rules and orders, constitutions and appointments after mentioned, and no other ways, and all ordained and appointed by the said disposition, to be particularly insert and ingrossed in the instrument of resignation, and infeftments aforesaid to follow thereupon, *viz.* In the first place, reserving always to the said Captain A. C.

his

his liferent of the ſaid lands and others above diſponed, with the pertinents, during all the days of his lifetime, and benefit of the faculty reſerved to him, in manner, and in the terms after ſpecified. In the ſecond place, by the ſaid diſpoſition, and theſe preſents, and charter to follow thereupon, it is expreſly provided and declared, that if at any time hereafter, the ſucceſſion of the ſaid Captain A. C. his body, ſhall deſcend to heirs-female, or he failing without ſucceſſion of his body, and likewiſe failing of heirs-male of the ſaid A. N. his body, whereby the ſucceſſion ſhall deſcend upon the heirs-female of his body, then, and in that caſe, the eldeſt heir-female, without diviſion, ſhall ſucceed, and all the ſaid heirs female, ſo ſucceeding, and heirs-male and female deſcending of their bodies, ſhall be holden and obliged, and by the acceptation of the ſaid diſpoſition, bind and oblige them, in all time coming, to aſſume, uſe, and bear the ſurname of C. and the arms, cognizance, and ſtile of K. nor ſhall it be leiſome and lawful to, or in the power of the heirs-male or female, deſcending of the body of the ſaid A. C. or of the body of the ſaid A. N. if it ſhall happen them to ſucceed in the right of the ſaid fortune and eſtate, by virtue of the ſaid diſpoſition and tailzie, to ſell, annalzie, hypothecate, or wadſet, diſpone, or give, or grant infeftments of annualrents, or to ſet in tack and aſſedation above or beyond the ſpace of the ſetter his lifetime, any of the lands or others above diſponed, with the pertinents or teinds thereof aſſigned to them by the ſaid diſpoſition, nor to contract debt thereupon, or to do or commit any other fact or deed, civil or criminal, whereby the ſaid lands, teinds, and others above diſponed and aſſigned, or any part or portion thereof, may be any manner of way burdened, affected, evicted, appriſed, or adjudged, or whereby the ſame may become any manner of way caduciary; nor ſhall it be leiſome to them, directly or indirectly, to change or innovate the ſaid tailzie, or order of ſucceſſion thereby ordained and appointed, or to fruſtrate the dotation and mortification therein deſigned, appointed and preſcribed, in the event or caſe above expreſſed; and in caſe the ſaid heirs-female of the ſaid Captain A. C. his body, or of the body of his ſaid ſons, deſcending and failing of them, the heirs-female of the ſaid A. N. ſhall fail to aſſume, and inſtantly to uſe the name, arms, and ſtile in manner above ſpecified, or if the heirs-male or female of the ſaid A. C. his body, or failing of him, without ſucceſſion of his body, the ſaid A. N. and heirs-male or female of his body, ſhall ſell, annalzie, impignorate or diſpone, or grant infeftments of annualrents, or grant tack for any longer ſpace than the lifetime of the granter of any of the ſaid lands and others above diſponed, or yet the teinds aſſigned by the ſaid diſpoſition, or contract debt thereupon, or do or commit any other fact, civil or criminal, whereby the ſame may be any ways burdened, affected, evicted, appriſed, or adjudged, or by which the ſame may become any manner of way caduciary, or forfeited, or yet innovate or alter the ſaid tailzie, or order of ſucceſſion therein appointed, or do any deed to fruſtrate the dotation or mortification ſet down, appointed and preſcribed in the ſaid right and diſpoſition, in the event or caſe above and therein expreſſed, and for the ſaid cauſes, or one or other of the ſaid proviſions, therein and above mentioned, to contravene; then, and in either of theſe caſes, the ſaid facts and deeds ſhall not only be null and void, in ſo far as the ſaid lands and others therein and above

ſpecified, and teinds thereby aſſigned, or thoſe who ſhall ſucceed in the ſame may be burdened, but alſo the perſon contravening and doing or acting in the contrary, ſhall amit and tyne all right which he has, or by virtue of the ſaid right and tailzie, or otherways can pretend to the ſaid lands, teinds, and others above ſpecified, and the next in order of ſucceſſion, who ſhould ſucceed therein, if the perſon doing in the contrary were dead, ſhall have right to the ſame; and failing of the ſaid G. C. without heirs of his body, and others deſcending of the ſaid Captain A. C. his body, in this or any other future marriage, as alſo of the ſaid A. C. his body, in this or any ſubſequent marriage, and of the ſaid A. N. without heirs of his body, or if the heirs-male or female of the ſaid A. C. his body, which failing, the ſaid A. N. and the heirs-male and female of his body, upon whom the right of the ſaid lands, teinds, and others foreſaid, is eſtabliſhed, ſhall fail or contravene in the premiſſes, the ſaid moderator and brethren of the exerciſe or preſbytery foreſaid, ſhall have right thereto, and in whoſe favours *reſpectivè*, he who ſhall contravene and do in the contrary, ſhall be holden and obliged to denude, ſtill with the proviſions, limitations, and reſtrictions above mentioned, and it ſhall be lawful to the next in the order of ſucceſſion, and failing of ſucceſſion, or in caſe of contravention, to the moderator and brethren of the ſaid exerciſe or preſbytery aforeſaid, for the time being, and their predeceſſors from time to time, moderators and brethren of the ſaid exerciſe or preſbytery, as truſtees and *fide-commiſſaries* for the ſaid poor, and others under written, to purſue and proſecute actions of declarator, appriſe or adjudge, and to obtain thoſe who ſhall contravene and come in the contrary of the premiſſes denuded thereof, they always obſerving and performing the ſaid tailzie and conditions thereof. And in the third place, by the ſaid right and diſpoſition, and theſe preſents, and charter to follow thereupon, it is expreſly provided and declared, that as the ſaid heirs-male and female of the ſaid A. C. his body, which failing, the ſaid A. N. and heirs-male and female of his body, if the ſaid fortune and eſtate ſhould devolve upon them, have no power or liberty to diſpone, alienate, or impignorate the lands and others above ſpecified, with the pertinents and teinds aſſigned by the ſaid diſpoſition, or to grant rights of annualrent forth thereof, or to ſet tacks and aſſedations beyond the life of the granter, or to contract debt thereupon, or to do any other fact or deed whereby the ſaid lands and others foreſaid, and teinds thereby aſſigned, may be burdened and affected, evicted, appriſed, or adjudged, or the ſaid mortification or dotation fruſtrate, in manner above mentioned, ſo it ſhall not be leiſome or lawful to any of the ſaid heirs of tailzie, whether male or female, to ſuffer and permit the ſaid lands and others above ſpecified, and teinds thereof above aſſigned, or any part or portion thereof, to be appriſed, adjudged, or otherways evicted, for any debts or feu-duties, blench-duties, nonentry, or other duties, miniſters or ſchoolmaſters ſtipends, reparation of kirks and kirk-yard dykes, or for any other reaſon or ground of debt, or cauſe whaſoever, to which they may be obliged; and if they do in the contrary, and not redeem any ſuch appriſings or adjudications, within the ſpace of two years, before expiration of the legal, then, and in that caſe, and whenever the legal thereof ſhall come within the ſpace of two years of the expiration, as ſaid is, it ſhall be lawful to the next in ſucceſſion and tailzie, and in their power, to redeem the ſame, and to poſſeſs all the lands and others above written, and teinds

thereof

thereof assigned, the lands appointed in liferent excepted, as said is, and all the profits and duties thereof, until they be reimbursed of that which they paid, in order to the said redemption, with the necessary expences and annualrents, *de die in diem*, after redemption, and during the not-payment; neither in the exoneration or discharge of their intromissions, shall they be further burdened, than for their actual intromission, and what they uplift, and all ministers stipends and other publick burdens, and what else payable forth of the said lands, and for which they shall produce sufficient acquittances and discharges, to be in the first place deduced and defalcate. And in the fourth place, by the said disposition, and these presents and charter aforesaid to follow thereupon, it is expresly provided and declared, that if any of the heirs-male or female of the said A. C. his body, which failing, the said A. N. and heirs-male or female of his body, shall, at the time of their succession, be debitors, or liable in any debts or deeds; that then, and in that case, the said debts and deeds shall no ways burden or affect the said lands, teinds, and others above mentioned, or any part thereof, or the mails, farms, profits, and duties of the same; and in case any of the said persons, or their heirs, shall act or come in the contrary of the premisses, it shall be leisome and lawful to the next in the order of succession, and succession failing, or, in case of contravention, to the said moderator and brethren of the exercise and presbytery aforesaid, for the time being, and to their successors from time to time, moderators and brethren of the said exercise or presbytery above written, as trustees and *fide-commissaries* aforesaid, and for the use above and after specified, to pursue and prosecute actions of declarator, appryse or adjudge for denuding the contraveners thereof, they always observing the said tailzie and conditions thereof. In the fifth place, by the said disposition, as also by these presents, it is expresly provided and declared, that notwithstanding of the prohibitory provisions above mentioned, yet nevertheless, it shall be still leisome and lawful to the heirs-male descending of the said A. C. his body, in this or any subsequent marriage, and to the said A. N. and to the heirs-male of his body, if the said fortune and estate be devolved upon them, to grant jointures to their wives out of the said lands and estate, but no ways by way of annuity or yearly annualrent, but by liferents of the property, and not exceeding the third part thereof, which also shall be burdened with the third part of ministers stipends, and publick burdens occurring for the time, and which liferents shall be in full and plenary satisfaction of terces; and if there be no heirs-male, but females, to succeed in the said estate, by the said disposition, and these presents, it is provided and declared, that it shall be leisome and lawful to the said heirs-female, so succeeding, to provide their husbands to liferents, not exceeding the half of the said estate, in satisfaction of all right of courtesy, and it shall be lawful to the said heirs, whether males or females, succeeding to the said estate, to provide their children, besides the heirs, to sums of money, the provisions of the younger children not exceeding in the haill, three years free rent, to be secured by infeftment in a part of the estate, corresponding to the sum, without requisition, at their age of sixteen years, but bearing annualrent yearly and termly, as well to the said age as thereafter, during the not payment; and if through not payment, appryse or adjudication follow, the

person,

perſon for the time proprietor, ſhall be holden to redeem the ſame, within the ſpace of two years, preceding the expiration of the legal, or elſe the next in the right of ſucceſſion may do the ſame, and poſſeſs until repaid, in manner, in the terms, and with the latitude above expreſſed, and which ſecurity ſhall alſo bear, notwithſtanding, premonition at any time, as well before as after the ſaid age; and farther, if the ſaid fortune and eſtate, failing heirs-male, ſhall be devolved upon the heir-female, or eldeſt daughter without diviſion, as ſaid is, and that the father, during his lifetime, do not provide the younger children, then, and in that caſe, the eldeſt daughter or heir-female ſo ſucceeding, ſhall be holden and obliged, and by the acceptation of the ſaid diſpoſition, binds and obliges herſelf to pay to the younger ſiſters, competent proviſions, not exceeding in the haill three years free rent of the ſaid eſtate, and that at their age of eighteen years, or ſooner, if married, with annualrent thereafter, during the not payment, and in the mean time, to educate and aliment them, until the ſaid age of eighteen years, or marriage *reſpective*, according to their degree and quality. And in the ſixth place, in reſpect the ſaid lands of H. and O. with the manor-place, houſes, biggings, yards, mills, mill-lands and others above ſpecified, diſponed by the ſaid A. Counteſs of T. to the ſaid Captain A. C. his heirs and ſucceſſors, are redeemable and under reverſion from him and his foreſaids, by her and others having right to the ſaid reverſion, by payment or conſignation, in caſe of abſence or refuſal, of the ſum of twenty thouſand merks, uſual money of this kingdom, and of the other ſums ſpecified and contained in the rights and infeftments granted to the ſaid Captain A. C. and his cedents and authors of the ſame, and upon the other proviſions and conditions therein mentioned, conceived in their favours, and, in like manner, becauſe the tenements and others, generally above and in the ſaid diſpoſition ſpecified, but particularly ſet down, nominated and deſigned in the ſaid prior rights, pertaining heritably to the ſaid Captain A. C. and lying within the burgh of E. at leaſt that part thereof adjudged by the ſaid Captain, from I. B. are redeemable, and under reverſion by act of parliament, by payment of the ſums contained in the decreet of adjudication led and deduced at the inſtance of the ſaid Captain A. C. againſt him thereanent, and thereby otherways due of the law; therefore, by the ſaid diſpoſition, and theſe preſents, it is expreſly provided and declared, that it ſhall not be lawful to the ſaid A. C. eldeſt ſon to the ſaid Captain A. C. or to the heirs-male or female of his body, and failing of them, to the ſaid A. N. or heirs-male or female of his body, and failing of them, to the ſaid truſtees and *ſide-commiſſaries* above and after ſpecified, to uplift the ſaid ſums due upon the ſaid lands of H. and O. with the pertinents, or yet the ſums due by virtue of the ſaid adjudication, except for the ſpecial uſe and end after mentioned, *viz.* for acquiring convenient and well holden land, for the uſes, ends, and effects, and with and under the conditions and proviſions enumerate in the ſaid diſpoſition and theſe preſents, and no other ways. And in the ſeventh place, becauſe failing heirs-male and female procreate or deſcending of the ſaid G. C. ſon to the ſaid Captain A. C. his body, and of the ſaid Captain A. C. his own body, in this or any other ſubſequent marriage, and of heirs-male and female of the ſaid A. C. and A. N. their bodies, or in the caſe of contravention in

manner

manner foreſaid, not only the ſaid lands and others above ſpecified, with the pertinents and teinds aſſigned by the ſaid diſpoſition, but alſo the tenements, cellars, booths, vaults, yards, and others above written, pertaining to the ſaid Captain A. C. lying within the ſaid burgh of E. by the ſaid diſpoſition, and by virtue of other rights, tranſmiſſions, and conveyances made by him of the ſaid tenements, cellars, booths, vaults, yards, and others above written, lying within the ſaid burgh of E. dated the ſaid diſpoſition the eighth day of Auguſt 1684, and of the procuratory of reſignation therein contained, and infeftments following or competent to follow thereupon, and in the ſaid diſpoſition and in theſe preſents holden as for expreſſed *brevitatis cauſa*, are ſold, diſponed, and mortified by the ſaid Captain A. C. to the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. for the time being, and to their ſucceſſors, moderators and brethren of the ſaid exerciſe or preſbytery, from time to time, for ever in all time thereafter, as truſtees and *ſide-commiſſaries* for the uſe and benefit of the poor, and others therein and after mentioned; therefore, by the ſaid diſpoſition, as alſo by theſe preſents, it is expreſly provided and declared, likeas, by the ſame it is ordained and appointed to be provided and declared by the reſignation and infeftment to follow thereupon, and in like manner, by the infeftment narrated in the ſaid diſpoſition, to follow upon the former procuratory of reſignation, and by the reſignation made by virtue thereof, that how ſoon the right of the ſaid lands, tenements, cellars, booths, vaults, yards, and others diſponed by the ſaid right and diſpoſition, and by the prior right and procuratory and teinds of the ſaid lands, with the pertinents, ſhall come to be devolved upon, and in favours of the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. for the time exiſting, and of their ſucceſſors, moderators and brethren of the ſaid exerciſe and preſbytery of P. as truſtees and *ſide-commiſſaries* for the uſe and behoof of the poor and others after named, and that either by the non-exiſtence of the ſaid heirs, or by contravention in the caſes above ſpecified, that then, and immediately thereafter, the houſes, yards, orchards, parks, and office-houſes of K. ſhall be erected, converted, eſtabliſhed, and founded in an hoſpital, to be called and deſigned in all time thereafter, the hoſpital of Captain A. C. his Majeſty's maſter ſlater, in which, at the ſight and inſpection, and with advice of the ſaid moderator for that time, and of the brethren of the exerciſe or preſbytery aforeſaid, or major part of them, with conſent and concurrence of the archbiſhop of G. a convenient place or room, with a deſk and ſeats alſo convevient, ſhall be ſeparate, ſet apart and conſecrate, to be called and deſigned in all time thereafter, the oratory of the ſaid hoſpital; and, in like manner, the ſaid moderator and brethren aforeſaid, or *major pars* of them, ſhall deſign and ſet apart, or ſegregate an hall and dining-room, and other convenient places and rooms for the poor and other perſons after ſpecified, pertaining to the ſaid hoſpital, in which they may ly and lodge in, with beds and bed-clothes ſuitable, with cellars, girnal-houſes and other places and rooms convenient, brew-houſes and brewing veſſels or looms, kitchen and kitchen-veſſels. In the next place, the ſaid moderator and brethren aforeſaid, or *major pars* of them, the moderator being ſtill one, ſhall nominate, appoint, and conſtitute a factor for uplifting and collecting of the rents of the

ſaid

ſaid lands, tenements, cellars, booths, vaults, yards, and others above diſponed, and teinds above aſſigned, with power to him to uſe warnings in their names, to remove, output, and input tenants, and to ſet the ſaid lands and others foreſaid, in tack and aſſedation, without diminution of the rental, which by them ſhall be ſubſcribed and delivered to the factor, the time of his entry, unleſs the ſame be with conſent of the moderator, and *major pars* of the brethren, and to call and hold courts for the ſaid duties, and fine and amerciate within the ſphere of an heritor, and to uplift the ſame, excepting always as to the woods after ſpecified, for which there is a foreſter and keeper appointed, in manner after mentioned; and to poind and diſtrenzie for the ſaid rents, fines, and amerciaments, and to grant diſcharges for the ſame, the ſaid factor being always comptable to the moderator and brethren aforeſaid, or *major pars* of them, of which the moderator ſhall be ſtill one, and that for the uſe of the poor and others after named. In the third place, (*here take in all the reſt of the mortification, until ye come to the clauſe of regiſtration, which I have omitted here* brevitatis cauſa, *but was inſert in the ſignature, charter, and ſaſine following thereupon, of which, and mortification itſelf, I was writer, and notary to the ſaſine, and ye will find the ſaid mortification among ſt ſecurities, which is the fifth part of the ſyſtem of ſtiles, and the index of that part will direct you thereto, only remember, that in the ſignature ye muſt ſpeak of the donor Captain A. C. in the third perſon, and not in the firſt, as in the mortification, becauſe the donor ſpeaks there, but the king in the ſignature, and then ſay*) as authentick inſtruments taken upon the ſaid reſignation, in the hands of G. D. of S. writer to his Majeſty's ſignet, and notary-publick, in themſelves more copiouſly is comprehended: And his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that a ſaſine to be taken by the ſaid G. C. and heirs-male of his body, which failing, by the other heirs-male and of tailzie above mentioned, and failing of all the ſaid heirs, by the ſaid moderator and brethren of the ſaid exerciſe or preſbytery of P. as truſtees and *fide-commiſſaries* aforeſaid, and for the uſe and benefit of the poor, and other perſons above written, now and in all time coming, at the manor-place and principal manſion of K. or upon the ground of any part or portion of the ſaid lands and others above diſponed, with the pertinents, is and ſhall be as valid and ſufficient a ſaſine to them, for all and ſundry the ſaid lands, mills, mill-lands, woods, fiſhings, and others above mentioned, with the pertinents, as if a particular ſaſine were taken by them upon each part and portion thereof, albeit not ſo done, and notwithſtanding of their diſcontiguity; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid ſaſine, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for his Majeſty and his royal ſucceſſors, diſpenſes for ever, to be holden, and for to hold all and ſundry the foreſaid lands, mills, mill-lands, woods, fiſhings, and others particularly and generally above diſponed, with the pertinents, to the ſaid G. C. and heirs-male of his body, which failing, to the other heirs-male and of tailzie above ſpecified, of his Majeſty and royal ſucceſſors in fee and heritage for ever, with and under the expreſs reſervations, proviſions, conditions, limitations, reſtrictions, power and faculty above mentioned,

tioned, and no other ways; and, failing ſucceſſion of the ſaid G. C. Captain A. C. A. C. and A. N. their bodies, in manner foreſaid, to the ſaid moderator and brethren of the exerciſe and preſbytery of P. as truſtees and *fide-commiſſaries* for the uſe and utility of the poor, and other perſons above expreſſed, obſerving the rules, orders, conſtitutions, and ſtatutes above rehearſed, and under reverſion always, the ſaid lands of H. and O. with the mill and pertinents, in manner above expreſſed, alſo of his Majeſty and royal ſucceſſors in mortification *et puram eleemoſinam*, fee and heritage for ever, by all rights, meiths, and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, mill-lands, *&c.* hawking, hunting, fiſhings, coals, coal-heughs, doves, dove-cotes, cunnings, cunningaries, with court-plaints, herezalds, *&c.* and free iſh and entry, *&c.* and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly the ſaid G. C. and heirs-male of his body, which failing, the other heirs-male and of tailzie above mentioned, and failing ſucceſſion of the ſaid G. C. Captain A. C. and A. C. and of the ſaid A. N. their bodies, in manner above written, the ſaid moderator and brethren of the ſaid exerciſe and preſbytery of P. as truſtees and *fide-commiſſaries* above ſpecified, for the uſe and utility of the ſaid poor, and other perſons above mentioned, to his Majeſty and royal ſucceſſors, as ſuperiors, the reſpective duties under written, *viz.* For the ſaid lands of K. and pendicle thereof, called G. with the manor-place, and all and ſundry houſes, biggings, yards, orchards, mills, woods, fiſhings, parts, pendicles, annexes, connexes, and pertinents thereof, the feu-duties, blench-duties, and other duties, if any be, due and payable to them forth of the ſame, and contained in the original rights and infeftment thereof, before the granting of theſe preſents, and charter aforeſaid to follow thereupon, and for the ſaid juſt and equal half of the ſaid lands of H. with the pertinents, the ſum of twenty merks Scots money, at two terms in the year, *viz.* Whitſunday and Martinmas, by equal portions, during the ward and nonentry thereof; with the like ſum of twenty merks money foreſaid, for the relief, and the ſum of two hundred merks money above written, for the marriage of the heir or heirs, and that as oft and how oft the half of the ſaid lands of H. with the pertinents, ſhall happen to fall into the hands of his Majeſty or royal ſucceſſors, by reaſon of ward and nonentry in all time coming, during the not redemption, as the juſt and equal half of the ſum of forty merks money foreſaid, for the ward and nonentry, forty merks for the relief, and of four hundred merks money above written, for the marriage; and to which ſums the ſaid haill lands of H. with the pertinents, are taxed, and which ward, nonentry, relief, and marriage of the ſaid heirs, how oft the ſaid lands, by reaſon of ward and nonentry, ſhall happen to fall in the hands of his Majeſty, and his foreſaids, were diſponed by his Majeſty's deareſt father, King Charles I. of moſt bleſſed memory, in favours of the deceaſed J. E. of T. and of his ſon and their aſſignees, conform to a charter granted to them thereupon, under his Majeſty's great ſeal, of the date the —— day of —— —— : And his Majeſty, with conſent foreſaid, by theſe preſents, gives power and commiſſion to the ſaid G. C. and his heirs-male above ſpecified, which failing, to the other heirs-male and of tailzie above mentioned, and their ſucceſſors and aſſig-

nees, to enter heirs in ſpecial to their predeceſſors in the ſaid lands, with the pertinents, and that by brieves forth of his Majeſty's chancellary, and to retour the ſaid ſervices, and to obtain themſelves infeft thereupon, notwithſtanding of the nature of the holding, and that they be minors for the time, and without neceſſity of any other warrant or diſpenſation to be had for that effect; whereanent, and with the inqueſt and giver of the ſaſine, his Majeſty, for himſelf and royal ſucceſſors, with conſent aforeſaid, has diſpenſed, and by theſe preſents, diſpenſes for ever, and wills and declares the ſame to be as valid and ſufficient, as if the ſame were done after their full and perfect age of twenty-one years complete; and ſicklike, giving yearly the ſaid perſons to his Majeſty and his royal ſucceſſors, for the ſaid lands of O. with the pertinents, one penny Scots money upon the ground of the ſaid lands, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, for all other burden, exaction, *&c.* And moreover, his Majeſty has ratified, approven, and for his Majeſty and his royal ſucceſſors, perpetually confirmed, likeas his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for his Majeſty and royal ſucceſſors, perpetually confirms, all charters, ſaſines, and other rights made and granted by his Majeſty and his moſt ſerene progenitors, or any other perſon or perſons, to the ſaid Captain A. C. and to the deceaſed J. M. of P. or to any others their predeceſſors or ſucceſſors, cedents and authors, of, upon, and concerning the ſaid kirk lands, called K. and pendicle thereof, called G. manor-place, houſes, biggings, yards, orchards, mills, mill-lands, parts, pendicles, and all their pertinents, in the haill heads, articles, and clauſes thereof; admitting and declaring the generality foreſaid, to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the ſaid writs and other rights generally above confirmed, were *de verbo in verbum* herein inſert and ingroſſed, and as if the ſaid confirmation were granted before the year one thouſand five hundred fourſcore and ſeven, and before the death of the granters and receivers thereof, albeit not ſo done; whereanent, his Majeſty, with conſent foreſaid, has alſo diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever; ſaving and reſerving always to his Majeſty, the feu-duties, blench-duties, and other duties, if any be, due and payable to them forth of the ſaid lands, and contained in the ſaid Captain A. C. and his predeceſſors and authors their rights and infeftments of the ſame, at any time before the ſaid confirmation; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, The inſtrument of reſignation, as well as the ſignature, charter, and ſaſine, contained all the clauſes both of the tailzie and mortification, becauſe ſo expreſly appointed by the donor, and, in the like caſe, ſhould be obſerved by all writers, as the rule.

Nota, There be many tailzies, and of various natures, yea, at times, the maker thereof, upon diſobligements from ſome of his near relations, or their being unworthy or incapable to ſucceed to the fortune, and, at other times, ſome of his own children may be profligates, and profuſe in their lives, yea, marry below their quality, without knowledge or conſent of the father, and to the diſhonour and diſparagement of the family; and ſuch acts being unnatural and unfilial, and, beyond all peradventure, irreligious, and tending to, and an evident

vident preſage of the ruin and ſuppreſſion of the fortune, ſhould they ſucceed, the maker of the tailzie, upon thoſe, or like conſiderations, and probably the diſloyalty of children or friend, a clear ground of forfeiture, paſs by, and balk not only ſuch, but even thoſe deſcending of their bodies, and devolve the eſtate upon the next ſon, albeit younger, and the heirs-male of his body, and ſo downward; and at other times, parents are ſo merciful and indulgent to ſuch profligates, who are not *rerum ſuarum providi*, and diſobedient ſons, that not being without hope, that they may repent and reform their lives and manners, there being nothing impoſſible with God, that even in the ſame tailzie wherein ſuch are excluded, the granter or maker thereof, reſerves not only power and faculty to himſelf, at any time in his lifetime, to alter, innovate, and change the tailzie, and manner thereof, by a new reſignation or other writ, under his hand, ſignifying his inclinations as to thoſe excluded, and their ſucceſſion to the eſtate, notwithſtanding, and that in the due order of their birth, and as if they had not been ſecluded, but alſo, reſerve power and faculty to ſo many of his friends, or quorum of them, the number whereof is particularly named and conſtituted, and probably a *ſine quo non* appointed, to grant a reverſion to the perſon excluded, if they find his life and manners altered to the better, in his virtues, morals, and religion, upon payment or conſignation of ſuch a patrimony to the younger ſon in the tailzie, as they ſhall pleaſe determine; but if they, or quorum aforeſaid, find him perſiſt in his former way of life and proſuſedneſs, with power to them or quorum, whereof the *ſine quo non* muſt be one, to renounce and diſcharge the ſaid reverſion, in full and ample form, and as if the ſame had never been granted or provided; whereby the younger ſon in the tailzie, and heirs-male of his body, which failing, the other heirs-male and of tailzie therein ſpecified, downward, and in the order of the tailzie, may peaceably poſſeſs, bruik, and enjoy the eſtate, conform to the firſt deſtination of the tailzie, with and under the expreſs conditions, proviſions, declarations, reſtrictions, and limitations therein contained, and their obſervation, and not contravention of the ſame, in manner, and in the terms therein expreſſed.

Nota, I have ſeen the like, and where the friends, according to the power given them, upon grave and mature conſiderations, renounced and diſcharged the reverſion, and was regiſtered, by which the youngeſt ſon, who was in the actual fee by the tailzie, deceaſing without heirs-male of his body, his uncle, as the next perſon in the tailzie, ſucceeded to him in the eſtate; but I was not writer of the tailzie, nor did I expede the infeftment the ſeals, but was clerk to this gentleman's ſervice; and ye will find it in the laſt part of the whole ſyſtem of ſtiles.

Nota, As noblemen and gentlemen may tailzie their eſtates in what terms, and with and under what proviſions, reſervations, and reſtrictions they pleaſe, and, no doubt, by advice of lawyers; ſo the writer, obſerving the tailzie in all its tenors and circumſtances, both in the inſtrument of reſignation, charter and ſaſine, and other clauſes proper in the ſignature, as to erections, diſpenſation for taking ſaſine, and *tenendas* and *reddendas*, according to the former charters, he can hardly err; and if there be any ward-lands, they may be taxed in the ſame ſignature, under the king's own hand, whether as king, or as king, prince, and ſtewart of Scotland, if there be lands holden of the prince and ſteward, as well as of the king; for where there is no prince at the time exiſting, the king has right, and may do as to both; but when there is a prince and ſteward, the prince and ſteward of himſelf, and, if minor, with conſent of the king as adminiſtrator, enters the vaſſal in ſuch lands and others as hold of the prince and ſteward; and, in the ſame charter and entry, may tax ward-lands, if any be, as well as any other ſuperior; and am clear, that all charters, taxing lands, be ratified in parliament, that of taxing, albeit for eminent ſervices, being a diminution of the caſualties falling out, and due by ſimple ward.

SIGNATURE *of the Dukedom of Lennox, by King Charles* II. *as neareſt Heir-male of the deceaſed Charles Duke of Lennox, in favours of Charles Duke of Lennox and Richmond; wherein there be Lands and others, as well holden of the Prince and Steward of Scotland, as of the King, with new Erections, Regalities, Bailiaries, and other things worthy of Obſervation.*

OUR SOVEREIGN LORD, conſidering that his Majeſty, as neareſt heir-male of the deceaſed Charles Duke of Lennox, has ſucceeded, and has right to all lands, lordſhips, baronies, earldoms, offices, advocations, donations, and rights of patronages and others, in which the deceaſed Charles Duke of Lennox died laſt veſt and ſeiſed; and his Majeſty, out of the love and paternal affection which he bears towards his moſt well-beloved natural ſon, Charles Duke of Lennox and Richmond, having appointed and ordained to diſpone to the ſaid Duke the eſtate of Lennox, and that for ſupport of the dignity and title of the Duke of Lennox and Richmond, conferred and collated by his Majeſty not long ago upon him; therefore, his Majeſty, as king, and as prince and ſteward of Scotland, as alſo, as neareſt heir-male foreſaid of the ſaid deceaſed Charles Duke of Lennox, with the ſpecial advice and conſent of his Majeſty's well-beloved couſins and counſellors, (*here the conſents are taken in, being then in a treaſury*) gave, granted, and diſponed, likeas, his Majeſty, as king, and as prince and ſtewart of Scotland, and likeways as neareſt heir-male of the ſaid deceaſed Charles Duke of Lennox, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and royal ſucceſſors, perpetually confirms to the ſaid Charles Duke of Lennox, and to the heirs-male to be procreated of his body, which failing, to revert to his Majeſty and to his heirs and ſucceſſors, all and ſundry the dukedoms, earldoms, lordſhips, baronies, regalities, lands, offices, and others *reſpectivè* and particularly under written, with the caſtles, towers, fortalices, manor-places, mills, mill-lands, woods, fiſhings, tenants, tenandries, and ſervices of free tenants thereof, chaplainries, prebendaries, advocations, donations, and right of patronages of the ſame, parts, pendicles, and all and ſundry their pertinents, lying as follows, *viz.* all and haill the dukedom, earldom, lordſhip, barony, and regality of Lennox, with free chapel and chancellary, and with all and ſundry immunities, privileges, and liberties of free regalities, containing therein ſpecially the lands, lordſhips, baronies, caſtles, offices, and others particularly and generally after mentioned, as well property and tenandry, as ſuperiority of the ſame, *viz.* all and haill, (*here the particular lands, fiſhings, and others belonging to the ſaid dukedom, are particularly inſert, but omitted herein, as extraneous to ſtile, and upon publick record*) all lying within the ſheriffdoms of Dunbarton and Stirling, *reſpectivè*; as alſo all and haill the lands and lordſhip of Methven, with the caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, meadows, woods, mills, fiſhings, tenants, tenandries, and ſervices of free tenants thereof, advocation, donation, and right of patronages, of the provoſtry and prebendaries of the collegiate kirk of Methven, and of all other churches and chaplainries of the ſame, with their pertinents, extending to twenty pound lands of old extent, lying within

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the ſheriffdom of Perth, and likeways all and haill the office of admiralty of his Majeſty's whole kingdom of Scotland, and iſles thereof, including and comprehending the iſles of Orkney and Zetland, and all other iſles belonging to his Majeſty's kingdom aforeſaid, with all and ſundry pre-eminencies, dignities, privileges, immunities, juriſdictions, fees, caſualties, profits, and duties whatſoever, pertaining thereto, or that ſhall be known to belong to the ſame, any manner of way; and all and haill the office of chamberlainry of the ſaid kingdom of Scotland, with the privileges, honours, dignities, and commodities whatſoever pertaining thereto; and, in like manner, all and haill the caſtle of Dunbarton, with the haill lands, teinds, annualrents, fiſhings, farms, duties, and other caſualties belonging to the ſame, extending in the haill to fifty-three pounds ſix ſhillings and eight pennies, of lands of old extent, all united, annexed, erected, created, and incorporated in one free dukedom, earldom, lordſhip, barony, and regality, called the dukedom, earldom, lordſhip, barony, and regality of Lennox, with privilege of free chapel and chancellary, ordaining the place of Inchmirran to be the principal meſſuage of the ſaid dukedom; and, in like manner, all and haill the earldom, lordſhip, barony, and regality of Darnly, with free chapel and chancellary, and with all privileges, immunities, honours, dignities, caſualties, profits, and commodities whatſoever, pertaining and belonging to a free earldom, and to a free regality, chapel, and chancellary, comprehending in itſelf particularly, all and ſundry the lands of (*here are inſert the lands, parſonages, teinds, and others belonging thereto, but here omitted, as extraneous to ſtile, and upon publick record, and then it is ſaid*) lying within the regality of Darnly, and ſheriffdom of Renfrew, and all and ſundry the parſonage-teinds, and other teinds, parſonages and vicarages of the lands under written, *viz.* of the lands of Crookſtoun, *&c.* lying within the old pariſh of Paiſley, and ſheriffdon of Renfrew, and all and haill the lands and barony of Torboltoun, (*here are the particular lands and others comprehended in the ſaid barony, and then*) extending to an hundred pound lands of old extent, lying within the ſheriffdom of Ayr, all united, annexed, and incorporated in a haill and free earldom, and free regality, called the regality of Darnly, with privilege of free chapel and chancellary, as ſaid is, ordaining the caſtle of Darnly, *alias* Crookſtoun, to be the principal meſſuage of the ſaid earldom; as alſo, all and haill the office of bailiary of the juſticiary, barony, and regality of Glaſgow, within the haill bounds of the lordſhip, barony, and regality thereof, and in all parts of the ſaid lordſhip and barony, as well within as without the burgh of Glaſgow, with all fees, caſualties, privileges, immunities, and duties whatſoever uſed and wont, pertaining to the ſaid office; and likeways, all and ſundry the lands and others under written, of the lands and barony of Kilmaronock, after ſpecified, *viz.* (*here the particular lands and others belonging thereto, are particularly inſert, with the old extent thereof, and then it is ſaid*) all lying within the barony of Kilmaronock, being formerly parts and pendicles thereof, ſheriffdoms of Dunbarton and Stirling *reſpectivè*, and now, by annexation, within the ſaid ſheriffdom of Dunbarton, and were united, erected, and incorporated in a haill and free barony, called the barony of Kilmaronock, ordaining the tower and fortalice of Kilmaronock, with the manor-place, houſe, and edifices thereof, to be the principal meſ-

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ſuage of the ſaid barony, and a ſaſine to be taken there, to ſtand and be a ſufficient ſaſine for all and ſundry the lands and others above written, with the pendicles and pertinents formerly united in a barony, as ſaid is, without any other ſpecial or particular ſaſine to be taken at any other part of the ſaid lands, and notwithſtanding of their diſcontiguity; and likeways all and ſundry the lands and others under written, *viz.* the forty ſhilling land of Barquhannan, (*here are more lands and others, but omitted, and then it is ſaid*) with all other duties and ſervices uſed and wont, and pertaining and belonging thereto, and with all and ſundry houſes, biggings, *&c.* lying within the barony of Kilmaronock, and ſheriffdom of Dunbarton; as alſo, all and haill the advocation, donation, and right of patronage of the church of Kilmaronock, with the teinds, parſonage, and vicarage, great and ſmall, thereof, fruits, rents, provents, profits, emoluments, and duties whatſoever, pertaining and belonging thereto, together with all other lands, lordſhips, baronies, mills, woods, fiſhings, tithes, advocations, donations, rights of patronages, and others whatſoever, pertaining to the ſaid deceaſed Charles Duke of Lennox, or to which his Majeſty, as neareſt heir-male and of tailzie to him, or to any of his predeceſſors, may ſucceed; together, in like manner, with all right, title, intereſt, and claim of right whatſoever, which his Majeſty, as king, and as prince and ſteward of Scotland, or as neareſt heir-male and of tailzie to the ſaid deceaſed Charles Duke of Lennox, had, have, or any ways may have, exact, claim, or pretend to the ſaid dukedoms, earldoms, lordſhips, baronies, regalities, offices, lands, and others particularly and generally above written, or to any part or portion thereof, or to the mails, farms, profits, and duties of the ſame: And his Majeſty, as king, and as prince and ſteward of Scotland, as alſo, as neareſt heir-male and of tailzie of the ſaid deceaſed Charles Duke of Lennox, wills and grants, and for his Majeſty and his ſucceſſors, decerns, declares, and ordains, that the ſaid Charles Duke of Lennox and Richmond, and his foreſaids, ſhall peaceably bruik, enjoy, and poſſeſs the dukedom, earldom, lordſhips, baronies, regalities, lands, offices, and others foreſaid, with the pertinents thereof, ſicklike, and as freely in all reſpects, as his Majeſty, or the ſaid deceaſed Charles Duke of Lennox, or any of his predeceſſors, poſſeſſed, or might have poſſeſſed and done at any time before the granting of theſe preſents: And moreover, his Majeſty, as king, and as prince and ſteward of Scotland aforeſaid, has of new, united, annexed, erected, created, and incorporated, and by theſe preſents, of new, unites, annexes, erects, creates, and incorporates, the haill lands, lordſhips, baronies, and others above ſpecified, in a new dukedom, earldom, lordſhip, barony, and regality, to be called the dukedom, earldom, lordſhip, barony, and regality of Lennox, and in a new earldom and regality, to be called the earldom of Darnly, as the ſame were formerly united, in manner above mentioned: And his Majeſty wills and grants, and for his Majeſty and his ſucceſſors, decerns, declares, and ordains, that the ſaid ſaſines, to be taken by the ſaid Charles Duke of Lennox and Richmond, and his foreſaids, in all time coming, at the principal meſſuage of Inchmirran, ſhall ſtand, and be valid and ſufficient for the ſaid haill lands, lordſhips, baronies, and others above written, united in the ſaid dukedom; and that the ſaid caſtle of Darnly, *alias* Crookſtoun, for the ſaid earldom and regality of Darnly, and at the ſaid manor-

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place of Kilmaronock, for the ſaid haill lands and barony of Kilmaronock, right of patronages, and other lands above mentioned belonging thereto, with the pertinents thereof, according to the former diſpenſations above ſpecified, ſhall ſtand good and effectual for the whole other lands and others foreſaid, to be holden and for to hold all and ſundry the ſaid dukedom, earldoms, lordſhips, baronies, regalities, lands, offices, advocations, donations, rights of patronages, tithes and others above ſpecified, with the pertinents thereof, lying as ſaid is, to the ſaid Duke of Lennox and Richmond, and his foreſaids, of his Majeſty, as king, and as prince and ſteward of Scotland *reſpectivè*, and his Majeſty's ſucceſſors, kings, princes, and ſtewards thereof, in free heritage, free dukedom, earldom, lordſhip, barony, and regality, and with free chapel and chancellary, and with all privileges, immunities, dignities, honours, caſualties, profits, and commodities whatſoever, pertaining and belonging to a free dukedom, earldom, lordſhip, barony, and regality, with free chapel and chancellary, and in fee and heritage for ever, by all rights, meiths, and marches thereof, old and divided, as they ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, multures, *&c.* woods, fiſhings, *&c.* hawking, hunting, *&c.* peats, turfs, *&c.* coals, coal-heughs, doves, dove-cotes, cunnings, cunningaries, with court-plaint, herezald, *&c.* blood and bloodwits, furk, foſs, *&c.* pit and gallows, *&c.* and with all and ſundry other liberties, freely, quietly, *&c.* but any revocation, *&c.* giving yearly the ſaid Charles Duke of Lennox and Richmond, and his foreſaids, to his Majeſty, as king of Scotland, and to his ſucceſſors kings thereof, for all and haill the ſaid dukedom, earldom, lordſhip, barony, and regality of Lennox, with free chapel and chancellary, and with all immunities, privileges, and liberties of free regality, comprehending therein particularly the lands and others above written, with all and ſundry their pertinents, lying as ſaid is, two pennies, uſual money of the ſaid kingdom of Scotland, at the feaſt of Whitſunday, upon the ground of the ſaid lands and others foreſaid, in name of blench-farm, if it be aſked allenarly; as alſo, giving yearly to his Majeſty, as prince and ſteward of Scotland, and to his ſucceſſors, princes and ſtewards thereof, for all and haill the ſaid earldom, lordſhip, barony, and regality of Darnly, with free chapel and chancellary therein contained, lands and others above mentioned; lying in manner foreſaid, one penny Scots money at the feaſt of Whitſunday, upon the ground of the ſaid lands, in name of blench-farm, if it be aſked allenarly; and ſicklike, giving yearly to his Majeſty, as prince and ſteward of Scotland, and to his ſucceſſors, princes and ſtewards thereof, for all and haill the ſaid lands of Inchſhuman, with the manor-place, *&c.* and with privilege of regality, free chapel and chancellary within the haill bounds thereof, and all immunities, cuſtoms, and pertinents belonging thereto, one penny Scots money upon the ground of the ſaid lands, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly; and, in like manner, giving to his Majeſty, as king of Scotland, and to his ſucceſſors, kings thereof, for all and haill the advocation, donation, and right of patronage of the pariſh-church of Inchcynon, parſonage and vicarage thereof, and for the haill teinds, parſonage and vicarage, great and ſmall, of the ſaid pariſh, and of the other lands and poſſeſſions, and others within the ſame, and for all and haill the teind-ſheaves, and other teinds,

parſonages

parſonages and vicarages of the ſaid lands of Crookſtoun, and of the other lands above mentioned, lying in the ſaid old pariſh of Paiſley, one penny Scots money at the feaſt of Whitſunday, in the ſaid pariſh of Inchcynon, in name of blench-farm, if it be aſked allenarly, and paying to the miniſter ſerving the cure at the ſaid kirk, and to his ſucceſſors in the ſaid charge, their ſufficient ſtipend for ſerving the cure at the ſaid kirk, and furniſhing the communion elements there, as alſo preſenting, nominating, and providing fit and qualified perſons to the office of the miniſtry at the ſaid church, whenſoever the ſame ſhall happen to vaick by deceaſe, deprivation, demiſſion, tranſportation, or inability, or any other manner of way, and for all and ſundry the teind-ſheaves, and other teinds, parſonages, and vicarages of the ſaid lands of Crookſtoun, and others above written, lying within the ſaid ancient pariſh of Paiſley, the ſum of thirty-three ſhillings and four pennies money of the ſaid kingdom of Scotland, as the proportional part of the blench-farm duty, uſed to be paid to his Majeſty by William Earl of Dundonald, for the erected lordſhip of Paiſley, and that for relief of the ſaid Earl, *pro tanto*, with twenty bolls, four pecks of oat-meal of teind, and five bolls and eight pecks of bear of teind, and fifty-four pounds ſix ſhillings and eight pennies money foreſaid yearly, to the miniſter of Paiſley and his ſucceſſors, allocate to them forth of the ſaid teinds, as a part of their ſtipend, for their miniſterial ſervice at the ſaid kirk, and furniſhing the communion elements there yearly, and with the annuities uſed to be paid yearly to his Majeſty, or thoſe having right thereto from him, if any ſhall be found to be due for the ſaid teinds, in ſo far as they are free, over and above the proviſion due to the ſaid miniſter, forth of the ſame, according to the determination made or to be made thereanent; and relieving the ſaid W. E. of D. and his heirs and ſucceſſors, of all miniſters ſtipends, augmentations, communion elements, impoſitions, taxations, and all other burdens whatſoever, impoſed or to be impoſed upon the teinds of the ſaid lands, according to the proportion and quantity thereof, in ſo far as they exceed and are above and beyond the proportion above written, modified forth of the ſame to the miniſter of Paiſley, and for reparation and ſuſtentation of the ſaid church of Paiſley, choir, and walls of the kirk-yard thereof, and of all other expence to which the ſaid E. of D. or his foreſaids, ſhall happen to be burdened, affected, or diſtreſſed, correſponding always to the ſaid proportion and quantity of burden of teinds of the ſaid lands, in ſo far as they exceed and are above and beyond the ſaid proviſion, modified and allocated forth thereof to the ſaid miniſter of Paiſley, as ſaid is; excepting, nevertheleſs, the preſent ſtipends, augmentations, and proviſion for communion elements already modified and provided to the miniſters of the ſaid church of Paiſley, by the commiſſioners of parliament for the time, appointed for plantation and proviſion of churches, to which the ſaid Charles Duke of Lennox and Richmond, and his foreſaids, ſhall no ways be burdened for the ſaid teinds, further than the ſaid twenty bolls and four pecks of oat-meal of teind, five bolls and eight pecks of bear of teind, and fifty four pounds ſix ſhillings and eight pennies money foreſaid, already allocate to the ſaid miniſters forth of the ſaid teinds, as a part of their ſtipend, augmentation, and proviſion for communion elements, in manner above expreſſed; and likeways, giving yearly to his Majeſty, as king of Scotland,

land, and to his royal ſucceſſors kings thereof, for all and haill the ſaid lands and barony of Kilmaronock, comprehending therein the lands and others particularly above written, with the pertinents, lying in manner foreſaid, a pair of gloves upon the ground of the ſaid lands and barony, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly; as alſo giving yearly to his Majeſty, as king of Scotland, and to his Majeſty's ſucceſſors, kings thereof, for all and ſundry the lands and others above and under written, *viz.* the forty ſhilling land of Barquhannan, *&c.* (*here are more lands, mills, and others, but omitted* brevitatis cauſa) one penny money of the ſaid kingdom of Scotland, upon the ground of any part of the ſaid lands, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly; and ſicklike, giving yearly to his Majeſty, as king of Scotland, and to his Majeſty's ſucceſſors, kings thereof, for the ſaid advocation, donation, and right of patronage of the ſaid church of Kilmaronock, with the parſonage and vicarage-teinds, great and ſmall thereof, fruits, rents, provents, profits, and duties whatſoever, pertaining and belonging thereto, one penny Scots money upon the ground of the ſaid lands of Kilmaronock, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, as alſo relieving his Majeſty and his royal ſucceſſors of the local and modified ſtipend in uſe and wont to be paid to the miniſter, and his ſucceſſors, ſerving the cure at the ſaid kirk, or that ſhall be modified to them in any time coming: And becauſe the ſaid heritable office of bailliary and regality of Glaſgow, was holden by the ſaid deceaſed Charles Duke of Lennox, and his predeceſſors, of the archbiſhop of Glaſgow, and his Majeſty being no ways deſirous, that the ſaid archbiſhop of Glaſgow ſhould be deprived of a vaſſal in the ſaid office; therefore, his Majeſty, as king, and as heir foreſaid to the ſaid deceaſed Charles Duke of Lennox, or of any of his predeceſſors, by theſe preſents, nominates and preſents the ſaid Charles Duke of Lennox and Richmond, to be vaſſal to the ſaid archbiſhop of Glaſgow, requiring the ſaid archbiſhop of Glaſgow, and his ſucceſſors in the ſaid office, to enter and receive the ſaid Charles Duke of Lennox and Richmond, in vaſſal to him, in the ſaid heritable office of bailliary and juſticiary, to be holden of the ſaid archbiſhop and his ſucceſſors, the ſame way, and ſicklike, and as freely in all reſpects, as the ſaid deceaſed Charles Duke of Lennox, or any of his predeceſſors, who died laſt veſt and ſeiſed in the ſaid office, held, or might have holden the ſame; and his Majeſty hereby gives power and warrant to the commiſſioners of his Majeſty's treaſury and exchequer, if need be, to grant and expede particular gifts and preſentations of the ſaid office in due form, in favours of the ſaid Charles Duke of Lennox and Richmond, under his Majeſty's quarter-ſeal, and promiſes, *in verbo principis*, to ratify and approve theſe preſents, and all to follow thereupon, in his Majeſty's next parliament, excepting, nevertheleſs, and reſerving the donation of the office of great admiral of the kingdom of Scotland, and of the iſles belonging thereto, granted by his Majeſty to his moſt dear and only brother James Duke of Albany and York, of the ſaid office, during all the days of his lifetime; as alſo excepting and reſerving the liferent gift and donation granted by his Majeſty to Frances Ducheſs of Lennox and Richmond, of the rents and caſualties of the ſaid eſtate, during all the days of her lifetime; and, in like manner, the gift and donation granted by his Majeſty of the ſaid office

of bailliary and regality of Glaſgow, to William Duke of Hamilton, during his lifetime, and gift of chamberlain granted by his Majeſty to the Duke of Monmouth, during his lifetime; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and contain a precept of ſeiſin in favours of the ſaid Charles Duke of Lennox, and that precepts be orderly directed thereupon, in form, as effeirs. Given at his Majeſty's court at Windſor-Caſtle, the 20th day of Auguſt 1680, and of his Majeſty's reign the 32d year. The precept upon this ſignature was ſigneted the 29th of April 1681, *gratis*.

Nota, Here ye may ſee, as has been formerly obſerved, that when a prince and ſteward of Scotland does not at the time exiſt, that the king, not only as king, but alſo as prince and ſteward, grants ſignatures, whereupon charter under the great ſeal follows, as well of the lands and others holden of the prince and ſteward, as of himſelf as king, the right of the ſuperiority of what holden of the prince and ſteward, during the not exiſtency, being ſtated in the king's perſon. 2. The reaſon why I am ſo full in the deduction of the dukedom, earldom, lordſhips, baronies, tithes, offices, and others, albeit ſeveral lands and others comprehended in all or either of them be omitted, as extraneous to my deſign, only for ſtile, is, that all concerned may underſtand what holds of the king, as king, and as prince and ſteward for the time, and the nature of the reſpective holdings, and reſpective *reddendos* to the king, as king, and to the king, as prince and ſteward of Scotland. 3. By the cloſe and period of the ſignature, that all may know, that as the king ſucceeded to the deceaſed Duke of Lennox, in all his eſtate, whether holden of the king himſelf, or of the king, as prince and ſteward for the time, ſo the king could not, as prince and ſteward, hold of the archbiſhop of Glaſgow, or take any *clare conſtat* from him, it being below, yea, inconſiſtent with ſovereignty, to hold of any ſubject, and the ſupplement of the law, in that caſe provided, ſince property muſt be conveyed, is to go by gift and preſentation, in favours of another perſon, as all of that nature, by law, and according to the conſtant and inviolable ſtile of this realm, muſt, and ſhould go in point of tranſmiſſion, and albeit this preſentation be inſert in this ſignature, and ſo paſſed the whole ſeals, yet all theſe preſentations, as they occur, paſs under the king's royal hand, and in exchequer, by a particular ſignature paſſing the quarter-ſeal only; and therefore, this ſignature, as it bears and contains a preſentation, ſo it ordains preſentations apart to be expede in due form, if need were, and no doubt was done. 4. As this gift is granted to the Duke of Lennox and Richmond, and to the heirs-male of his body, ſo, failing of him, without heirs-male, the eſtate reverts and returns to the king and his royal ſucceſſors, which clearly makes them heirs of tailzie, albeit they could not, by propinquity of blood, ſucceed otherways. 5. As to that part of the eſtate holding of the king himſelf, and not as prince and ſteward, as his Majeſty ſucceeded thereto as heir-male, and by blood, ſo, by the ancient laws and cuſtom, there was no neceſſity of being infeft, having once right *jure coronæ* to the ſuperiority, and a conſolidation of the property with the ſuperiority, made the right entire, as when originally in the king's perſon, and before the eſtate was given off in vaſſalage, to be holden of the crown; and even ſo it fell out, when a ſubject gave out lands patrimonially, or otherways, to any of his children, or diſponed lands to another perſon holden of himſelf, if *jure ſanguinis* he afterwards fell to ſucceed as heir to them, and being ſerved heir, whereby the *dominium utile*, or property, was conſolidate *cum dominio recto*, or ſuperiority wherein he is already infeft, he needed not be infeft of new in the property, but the conſolidation aforeſaid, and retouring of the ſpecial ſervice, conjoined and redintegrate all, and made a ſolid and plenary right; and yet the Lords of ſeſſion, in the year 1664, or thereby, demurring upon the point, becauſe there was no veſtige, by ſeiſin, of any ſuch conſolidation, judge it neceſſary, a ſuperior in that caſe ſhould grant a *clare conſtat* to himſelf, and that the ſeiſin thereupon ſhould be regiſtered as all other ſeiſins, and what the Lords judge a ſecurity to the ſubjects, is to be followed; and yet ſome take the old

old method. But, 6. A queſtion and doubt may ariſe in the caſe immediately above written, when a ſubject and ſuperior ſucceeds to a vaſſal, *viz.* The ſuperior is not infeft in the ſuperiority, and probably cannot ſafely repreſent his predeceſſor, becauſe of debt, in which caſe it is clear, there can be no conſolidation, and yet as to the eſtate belonging to the vaſſal, being opulent at will, may freely enter thereto; and upon the matter, how ſhall this be done? I anſwer, That if the ſuperior may repreſent his predeceſſor, he muſt firſt ſerve, retour, and be infeft as heir in the eſtate, at leaſt in the ſaid ſuperiority of the lands, to which he may ſucceed by the death of the vaſſal, and then may be ſerved and retoured heir in ſpecial to the vaſſal, and in which ſervice the property will be conſolidate with the ſuperiority, *ut ſupra*. But in the other caſe, where he cannot repreſent his predeceſſor in the ſuperiority, he muſt ſerve and retour heir in ſpecial to the vaſſal in common form, and obtain a *clare conſtat* from the moſt effectual appriſer or adjudger of the ſuperiority, or if there be none ſuch, a creditor may charge the gentleman to enter heir for a debt of the predeceſſor who died laſt veſt and ſeiſed in the ſuperiority, and being purſued therefore, *ex hoc titulo*, lawfully charged to enter heir, he may renounce, whereupon decreets *cognitionis cauſa*, and adjudication will follow in courſe, and the adjudger being thereupon infeft by the predeceſſor's and debtor's ſuperior, and by which the right of ſuperiority is eſtabliſhed in the adjudger's perſon, he may thereafter enter the gentleman in the eſtate to which he ſucceeds as heir to the vaſſal, *ut ſupra*. And, 7. That you may ſee how rational conſolidations in ſervices are, in the caſe of ſucceſſion by a ſuperior to a vaſſal, who, at the beſt, has but a ſubaltern right, it is obvious, that when a ſuperior, whether it be the king or other ſuperior, or of a ſubject that acquires lands holden of himſelf, from his vaſſal, all the right proper to be had or given, is a diſpoſition from the vaſſal to the ſuperior of the lands, with a procuratory of reſignation *ad remanentiam*, whereby they are reſigned in the ſuperior's hands, to the effect the property may be conſolidate with the ſuperiority in the ſuperior and his heirs and ſucceſſors their perſons, and to remain and abide with them as their own proper lands and heritage in all time coming, inſeparably, *et ad perpetuam remanentiam*.

Nota, This was the ancient cuſtom, but the king and the eſtates of parliament having found, that theſe were but latent deeds, and might be ſuppreſſed, to the prejudice of lawful creditors, they moſt wiſely ordained, by an expreſs act of parliament, that all inſtruments of reſignation *ad remanentiam*, ſhall be regiſtered, as that of ſeiſins. But more of this in the laſt part of the ſtiles, treating upon ſervices.

SIGNATURE *of a Burgh of Barony of new erected, with Port, Haven, Harbour, and other Privileges, Tolls and Immunities.*

OUR SOVEREIGN LORD, underſtanding that the town and lands of R. pertaining heritably to his Majeſty's truſty couſin A. L. F. of P. lying within the pariſh of P. and ſheriffdom of A. is ſituate upon the eaſt part of the ſaid ſheriffdom, and that the ſame has a port, and commodious place and ſtation upon the north part, adjacent to the ſaid town and lands, diſtant from any burgh royal, by the ſpace of —— miles diſtance at leaſt, and therefore, may be commodious and profitable for being a burgh of barony, and ſo near the ſaid port lately erected; and moreover, that his Majeſty's ſhips, and other ſhips frequenting and reſorting to that ſhore, may be accommodate and ſupplied in all neceſſaries that the ſaid kingdom of Scotland produces, and that his Majeſty's ſubjects, and others coming and reſorting within the ſaid bounds, ſhall be plentifully accommodated in quarters,

lodging, or otherways, and that the inhabitants of the ſaid town or village ſhould be encouraged, by erection thereof in a free burgh of barony, and the port of the ſame in a free ſea port; therefore, and for the intereſt of policy, trade, and commerce, and for ſeveral other good cauſes and conſiderations moving his Majeſty hereunto, his Majeſty, with the ſpecial advice and conſent of (*here inſert the conſents, according to the conſtitution of the exchequer for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, (*bearing the narrative aforeſaid, and then ſay*) making, erecting, conſtituting, and creating, likeas, his Majeſty, of his Majeſty's certain knowledge, proper motive, power, authority, and prerogative royal, by theſe preſents, makes, erects, conſtitutes, and creates the ſaid town and lands of R. with the houſes, biggings, yards, tenements, veſtiges, tofts, crofts, parts, pendicles, and pertinents thereof, in a whole and free burgh of barony, and port and haven thereof, in a free ſea-port or haven, now and for ever, in all time coming, to be called the burgh of barony of R. and port or haven of R. And in like manner, his Majeſty, by theſe preſents, with advice and conſent foreſaid, gives and grants to his Majeſty's truſty couſin, as Lord F. of P. and to the heirs and ſucceſſors of the ſaid A. L. F. of P. in his lands, lordſhip, and barony of P. full power, right, liberty, and privilege, to repair the ſaid port or haven, and to build, conſtitute, and erect a free ſea-port or haven, in any other part near the ſaid town and lands above ſpecified, as to them ſhall ſeem moſt expedient, for the better accommodation of his Majeſty's ſubjects, and others repairing and making reſort thereto, and to make and build all fortifications or bulwarks, and other works neceſſary for that effect; and which burgh of barony, and all and ſundry houſes, biggings, yards, tenements, veſtiges, out-houſes, and edifices, built and to be built, acres, roods, tofts, crofts, and other pertinents of the ſame; and ſicklike all and haill the ſaid haven erected or to be erected, as ſaid is, with all and ſundry privileges, immunities, liberties, caſualties, anchorages, and duties pertaining to the ſaid burgh of barony, or ſea-port, or to any other burgh of barony and free ſea-port within the ſaid kingdom, his Majeſty, with advice and conſent foreſaid, by theſe preſents, gives, grants, and diſpones to his ſaid Majeſty's truſty couſin A. L. F. of P. and his foreſaids, with full and ſpecial power and privilege to them, to elect, make, create, and conſtitute baillies, burgeſſes, clerks, officers, ſerjeants, and other members needful within the ſaid burgh of barony, for erecting and governing thereof, as to them ſhall ſeem good, and with full power and privilege to the burgeſſes of the ſaid burgh, in all time coming, to buy and ſell wine, wax, and cloth, linen, woolen, broad and narrow, and all other merchandiſe or ſtaple goods, but any obſtacle or impediment, and to have, hold, admit, and receive within the ſaid burgh, baxters, fiſhers, brewers, fleſhers, and ſellers of fiſh, taylors, ſhoemakers, litſters, maſons, wrights, and all other artificers neceſſary, pertaining and belonging to the liberty of a free burgh of barony, and to build, have, and erect within the ſaid burgh of barony, a tolbooth and market-croſs, and a weekly market upon Friday, with two free fairs yearly, the one thereof the firſt Tueſday of July, and the other thereof the ſecond Tueſday of October yearly, with power and privilege to

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the ſaid A. L. F. of P. and his above ſpecified, to take order according to a good conſcience, and laws of the ſaid kingdom, with thoſe who ſhall diſturb and moleſt the ſaid markets and fairs, or any perſon or perſons coming and reſorting thereto, and to collect, uplift, intromit with, and apply the tolls, cuſtoms, and other duties of the ſaid markets and free fairs, for their own proper uſes; and ſicklike, with ſpecial and full power to them to receive reſignations of the haill lands, tenements, annualrents, and others within the ſaid burgh of barony, and bounds thereof, and to give, grant, and diſpone the ſame to any perſon or perſons, in whoſe favours the ſame ſhall be reſigned, or at whoſe inſtance the ſame ſhall be appriſed or adjudged, and to enter the heirs ſucceeding therein from time to time in the ſame, and to grant to them charters, infeftments, precepts of *clare conſtat*, ſeiſins, and other writs neceſſary, within the ſaid burgh and bounds thereof, and to ſet, hold, begin, affix, affirm, and continue courts as oft as need beis, and to create clerks, ſerjeants, and dempſters, and all other members of court neceſſary; and in the ſaid courts, to place, input and output at their pleaſure, abſents to amerciate tranſgreſſors, to puniſh according to the laws of the ſaid ancient kingdom, and to uplift and receive the unlaws, amerciaments, and eſcheats of the ſaid courts, and to apply the ſame for their own proper uſes, and if need beis, to poind and diſtrenzie therefor, and generally all and ſundry other things in the premiſſes, to do, uſe, and exerce, ſicklike, and as fully in all reſpects, and to all intents and purpoſes, as any other burgeſſes of any other burgh of barony within the ſaid kingdom have done, or may do, with power and liberty to the ſaid A. L. P. and his foreſaids, to impoſe, require, receive, intromit with, and uplift all and ſundry the ſmall cuſtoms, anchorages, deck-ſilver, ground duties, plankage, and all other duties and emoluments of the ſaid haven or ſea-port of R. in all time coming, and to apply the ſame to their own proper uſe, or diſpoſe thereupon at their pleaſure, ſicklike, and as freely in all reſpects, as if the ſame were, or may be uplifted or exacted by any others his Majeſty's vaſſals or ſubjects, heritors and proprietors whatſoever, of any other haven or ſea-port within the ſaid kingdom of Scotland, with power alſo to burden and diſburden at the ſaid port and haven, all ſhips, crears, and barks, boats, and other veſſels coming thereinto, or ſailing from thence, and to bruik, enjoy, uſe, and exerce all other privileges, immunities, liberties, and to uplift all and ſundry duties and cuſtoms above ſpecified, of the ſaid port and haven, as freely as the heritors of any other port or haven have done, or lawfully might have done at any time bygone, or may do in any time coming: And moreover, his Majeſty, with advice and conſent foreſaid, of his Majeſty's certain knowledge and proper motive, and out of his Majeſty's kingly power and prerogative royal, has united, annexed, and by theſe preſents, for his Majeſty and his royal ſucceſſors, unites and annexes the ſaid burgh of barony, free haven and ſea-port, and others above written, to the ſaid A. L. F. of P. his lands and barony of P. and wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that a ſeiſin now to be taken by the ſaid A. L. F. of P. of the ſaid burgh of barony, and ſea-port of R. and by his heirs and ſucceſſors above ſpecified, in all time coming, at the tower, fortalice, and the manor-place of P. principal meſſuage of the barony thereof, as the place

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appointed for taking of ſeiſin, ſhall ſtand, ſubſiſt, and be a ſufficient ſeiſin for the burgh of barony, ſea-port, and others above mentioned, without any other ſpecial ſeiſin to be taken by him or them, at any other part or place of the ſame, notwithſtanding of their diſcontiguity, and that they ly not together, but in divers parts and places; anent which ſeiſins, and all that may follow thereupon, his Majeſty, with advice and conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden, and for to hold all and haill the ſaid burgh of barony, ſea-port, haven, and others particularly and generally above expreſſed, to his Majeſty's truſty couſin aforeſaid, A. L. F. of P. and his above ſpecified, of his Majeſty and his royal ſucceſſors, in free blench, free burgh of barony, fee-heritage, ſea-port, or haven for ever, by all right, meiths, and marches thereof, old and divided, as they ly in length and breadth, in houſes, biggings, *&c.* mills, mill-lands, *&c.* hawking, hunting, fiſhings, *&c.* court-plaint, herezald, *&c.* free iſh and entry, *&c.* with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid A. L. F. of P. and his foreſaids, to his Majeſty and his royal ſucceſſors, the ſum of two pennies Scots money, upon the ground of any part of the lands of the ſaid burgh of barony, at the feaſt of Whitſunday, in name of blench farm, if it be aſked allenarly, and alſo adminiſtering juſtice to the inhabitants of the ſaid burgh of barony, and others reſorting thereto, conform to the laws and practique of the ſaid kingdom of Scotland, for the time allenarly: And, in like manner, his Majeſty faithfully promiſes, *in verbo principis*, to ratify and approve the ſaid charter and precept and ſeiſin to follow thereupon, in his Majeſty's next parliament, to be holden within the ſaid kingdom of Scotland, and that with advice and conſent of his Majeſty's eſtates of parliament, willing and requiring them to ratify and approve the ſame accordingly; and, that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

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SIGNATURE *of Reſignation of the Lands of L. to the Magiſtrates of D. inſert, becauſe in favours of a Community.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here inſert the conſents, according to the conſtitution of the exchequer for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, giving, granting and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming, likeas, his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to and in favours of —— preſent provoſt, and —— preſent baillies, —— preſent dean of guild, and —— preſent treaſurer of the burgh of D. for themſelves, and in name and behalf of, and as repreſenting the council and community of the ſaid burgh,

burgh, and their ſucceſſors in place and office, and as a part of the patrimony and common good thereof, heritably and irredeemably, and for ever in all time coming, all and haill (*here inſert the lands and others, as in the diſpoſitive clauſe of the diſpoſition made to them by the proprietor and diſponer, and then ſay*) which lands and others above ſpecified, with the pertinents, pertained heritably of before to —— and were by him, and his lawful procurators, in his name, to that effect ſpecially conſtitute, and patent letters contained in the right and diſpoſition made by him to the ſaid provoſt, baillies, dean of gild, and treaſurer of the ſaid burgh of D. for themſelves, and in name and behalf of, and as repreſenting the council and community of the ſaid burgh, and their ſucceſſors in place and office, as ſaid is, dated the —— day of —— laſt bypaſt, with all due humility and condign reverence, as becomes purely and ſimply, by ſtaff and baſton, as uſe is, duly and lawfully reſigned in the hands of the ſaid (*here inſert whether treaſurer or Lords of the treaſury, and then ſay*) and of the remanent Lords, and others, of his Majeſty's exchequer aforeſaid, his Majeſty's commiſſioners, having his Majeſty's power to receive reſignations, and thereupon to grant new infeftments in his Majeſty's name, as in the hands of his Majeſty, ſuperior thereof, at Edinburgh the —— day of —— in favours, and for new infeftment of the ſame, to be made and granted to the ſaid provoſt, baillies, dean of gild, and treaſurer of the ſaid burgh of D. for themſelves, and in name and behalf of, and as repreſenting the council and community thereof, and their ſucceſſors in place and office, as a part of the patrimony and common good of the ſaid burgh, heritably and irredeemably, and for ever in all time coming, to be holden of his Majeſty and royal ſucceſſors, ſuperiors thereof, in manner under written, and in ſuch due and competent form as accords, as authentick inſtruments taken thereupon, in the hands of —— writer to his Majeſty's ſignet, and notary-publick, in themſelves more fully proport; and his Majeſty, with conſent foreſaid, wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that a ſeiſin to be taken by the ſaid preſent magiſtrates, dean of guild and treaſurer, for themſelves, and in name and behalf foreſaid, and as repreſenting the council and community of the ſaid burgh of D. at the manor-place or principal dwelling-houſe already built, or hereafter to be built upon the ſaid lands of L. or upon the ground of any other part or portion of the ſaid lands and others foreſaid themſelves, is and ſhall be as valid and ſufficient a ſeiſin to them and their ſucceſſors in place and office, and for the council and community of the ſaid burgh, as if a particular ſeiſin were taken by them upon each part and portion of the ſaid lands and others foreſaid, albeit the ſame be not ſo done, and without reſpect to their diſcontiguity, or any neceſſity of any other ſeiſin to be taken for the future, by the ſubſequent magiſtrates, dean of gild, treaſurer, council and community of the ſaid burgh, in reſpect the intereſt and ſubject matter is now out of the perſon of a ſingle man, and diſponed and tranſmitted to, and devolved upon the whole body and community of the ſaid burgh of D. and likeways without neceſſity of making uſe of any other ſymbol, in taking of the ſaid ſeiſin, than that of earth and ſtone; anent all which, and with all that may follow thereupon, or that can be any ways objected againſt the validity of the ſaid ſeiſin, or that one ſeiſin is appointed

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to ſerve, without any further ſeiſins thereafter in time coming, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden, and for to hold all and haill the foreſaid lands above diſponed and reſigned, with the pertinents, lying, as ſaid is, to the ſaid provoſt, baillies, dean of gild, and treaſurer of the ſaid burgh of D. for themſelves, and in name and behalf of, and as repreſenting the council and community thereof, and to their ſucceſſors in place and office, heritably and irredeemably, of his Majeſty and his royal ſucceſſors, lawful ſuperiors thereof, in fee and heritage, and as a part of the patrimony and common good of the ſaid burgh for ever, in all time coming, by all rights, meiths, and marches of the ſame, old and divided, and as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, multures, *&c.* woods, fiſhings, *&c.* hawking, hunting, peats, turfs, coals, coal-heughs, doves, dove-cotes, cunnings, cunningaries, *&c.* quarrel, lime, and ſtone, *&c.* with court-plaint, *&c.* bloods, blood-wits, and amerciaments, *&c.* with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid provoſt, baillies, dean of gild, treaſurer, council and community of the ſaid burgh of D. and their ſucceſſors in place and office, to his Majeſty and royal ſucceſſors, ſuperiors above ſpecified (*here inſert the duties and others payable by the diſponer's charter under the great ſeal, and in the preciſe terms thereof, and then ſay*) and that the ſaid charter be extended in the moſt ſure and ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, Here ſome queſtions may ariſe, and not without ground, *viz.* 1*mo*, What if the lands held ſimple ward or taxed before the acquiſition, then the king wants his caſualties that uſually ariſe from the nature of that holding, and once entering and receiving a community, vaſſals cannot expect them as when in the perſon of a ſingle man, the right and conveyance being not to a ſingle perſon who might have heirs, but to a community, which perpetuates the right in them and their ſucceſſors in place and office, without intermiſſion or nonentry, one and the firſt entry ſerving for good and all? And, 2*do*, If the lands held feu, then it follows in conſequence, that the king is prejudged of the benefit of the duplication at the entry of heirs, which formerly he had, while the right ſtood in the perſon of a ſingle man? But as to theſe, and like queſtions, that might ariſe in ſuch caſes, it is proper ſuch ſignatures ſhould paſs the king's royal hand, and not in courſe; and, in that caſe, ſovereignty cannot be bounded ſo, but the king may diſpenſe therewith, by virtue of his prerogative royal, and of certain knowledge and proper motive, by an expreſs clauſe, not only in the ſignature, and before the *tenendas*, but alſo by a touch and go in the very *tenendas* itſelf, and likeways in the *reddendo*, and by ſo doing, there being a converſion of caſualties, from a greater to a leſs, and conſequently a diminution of the patrimony of the crown, the infeftment on this ſignature would be ratified in parliament.

SIGNATURE

SIGNATURE *of Recognition of the Lands and Barony of C. and ſeveral Juriſdictions, in favours of Sir G. M. of T. Baronet, and Lord Regiſter, containing Reſervations and Confirmations of ſeveral other Perſons their Rights, and containing alſo a Diſſolution and new Erection,* de novo damus, *&c.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents according to the conſtitution for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of his ancient kingdom of Scotland, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, perpetually confirming, likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to his Majeſty's truſty and well-beloved counſellor, Sir G. M. of T. baronet, Lord regiſter, and to his heirs-male whatſoever, which failing, to his heirs whatſoever, and their aſſignees, heritably and irredeemably, all and ſundry theſe parts and portions particularly under written, of the lands and barony of C. *viz.* (*here were taken in not only the property belonging to the ſaid Sir G. M. himſelf, with the heritable office of ſheriffſhip, bailliary, patronage of the church of C. and heritable conſtabulary of C. and fees belonging to the ſaid heritable offices, and teinds of the ſaid lands, but alſo the ſuperiorities and feu-duties, and reverſion of ſome other lands, ſometime pertaining to S. J. W. of C. and J. P. of C. his ſon, and adjudged and otherways evicted from them, and all with and under the reſervations, proviſions, and declarations after ſpecified, conceived in favours of the particular perſons after mentioned, and whoſe rights are likeways ratified and declared not to be comprehended in this ſignature*) which lands, towns, mills, miill-lands, caſtle, conſtabulary, office of ſheriffſhip, patronage, ſtell-fiſhings, teinds, ſuperiorities, feu-duties, annualrents, or annuities, and others particularly and generally above expreſſed, with the pertinents, lying as ſaid is, pertained heritably of before, in property and ſuperiority *reſpectivè*, to the ſaid Sir J. and J. W. or one or other of them, as a part and portion of the barony of C. not by them diſponed to the perſons after named, holden by them of his Majeſty and his moſt royal progenitors, by ſervice of ward and relief, ſimple or taxed, and now pertaining and belonging to his Majeſty, and fallen and become in his Majeſty's hands, and at his gift and diſpoſition, by reaſon of recognition, laws and practique of the ſaid ancient kingdom, and inherent privilege of the crown, by and through the ſaid Sir J. and J. W.'s their ſelling irredeemably, wadſetting, and giving out in feu-farm of the haill barony of C. whereof the ſaid lands, mills, mill-lands, and others above rehearſed are a part, and by granting of rights of annualrent and annuities, and other heritable ſecurities, for ſums of money, relief of cautionries, and other preſtations and obligations, and in real warrandice of other lands and eſtates to divers perſons, at leaſt, of divers parts and portions of the ſaid barony, exceeding the major and greateſt part thereof, and that without conſent of, or confirmation from his Majeſty or his predeceſſors firſt had and obtained, or by whatſoever other way or manner the ſame are fallen in his Majeſty's hands, and at

his gift and diſpoſition; and which way and manner of the ſaid recognition, and caduciary acts, are here holden as for expreſſed, *brevitatis cauſa*, diſpenſing with the ſaid generality for ever. And further, his Majeſty, with conſent foreſaid, has diſunited and disjoined, and by theſe preſents, diſunites and disjoins the ſaid towns, lands, mills, mill-lands, caſtle, tower, fortalice, offices of conſtabulary and ſheriffſhip, ſuperiorities, and patronage, ſtell-fiſhings, ports, havens, harbours, ſalmon-fiſhing, and other fiſhings, ferry yards, orchards, chaplainry, chapel-hill, and others, particularly and generally above diſponed, with the pertinents, lying as ſaid is, from all and ſundry other earldoms, lordſhips, baronies, and others, to which the ſame, or any of them, were formerly united and annexed; and his Majeſty, by virtue of his prerogative royal, and inherent power and privilege of his crown, and of his Majeſty's certain knowledge and proper motive, has, with conſent foreſaid, of new erected, united, annexed, created, and incorporated, and by theſe preſents, unites, annexes, creates, and incorporates the ſame, in a haill and free barony, to be called, now and in all time coming, the barony of C. ordaining the caſtle, tower, fortalice, and manor-place of Cromarty, to be the principal meſſuage of the ſaid barony, and that a ſeiſin to be taken thereat, or upon the ground of any other part of the ſaid lands, by the ſaid Sir G. M. and his foreſaids, now and in all time coming, ſhall be as valid and ſufficient a ſeiſin to them, for all and ſundry the ſaid towns, lands, mills, mill-lands, ſuperiorities, offices, patronages, and others foreſaid, as if a particular feiſin were taken by them upon each part and portion thereof, albeit not ſo done, and notwithſtanding the ſaid lands and others above written ly diſcontiguous; whereanent, and with all that may follow thereupon, or that can be objected againſt the ſame, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his ſucceſſors, by theſe preſents, diſpenſes for ever, to be holden, and for to hold all and haill the ſaid barony of C. as now erected, and comprehending, in manner foreſaid, to the ſaid Sir G. M. and his heirs-male, which failing, as ſaid is, and their aſſignees, heritably and irredeemably, of his Majeſty and his Majeſty's ſucceſſors, as ſuperiors thereof, in free barony, taxt-ward, fee and heritage for ever, by all rights, meiths and marches of the ſame, old and divided, and as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, mill-lands, *&c.* hawking, hunting, *&c.* coals, coal-heughs, doves, dove-cotes, cunnings, cunningaries, *&c.* with courts, *&c.* herezalds, *&c.* furk, foſſe, *&c.* pit and gallows, *&c.* together with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly, the ſaid Sir G. M. and his foreſaids, to his Majeſty and his royal ſucceſſors, the duties, rights, and ſervices, uſed and wont; but with this proviſion and declaration always, likeas, by theſe preſents, it is expreſly provided and declared, decerned and ordained, that albeit the ſaid lands and barony, comprehending, and now erected in manner foreſaid, ſhall, at any time hereafter, happen to fall in the hands of his Majeſty, or his royal ſucceſſors, as ſuperiors thereof, by reaſon of ward and non-entry, or either of them; yet nevertheleſs, and notwithſtanding thereof, it ſhall be ſtill leiſome and lawful to, and in the power of the ſaid Sir G. M. and his foreſaids, to poſſeſs, occupy, and labour the ſaid lands, barony, and others above ſpecified,

fied, by themſelves, or their tenants, and to intromit with, uplift, uſe, and diſpone upon the haill maills, farms, kains, cuſtoms, caſualties, profits, and duties thereof, in all time coming, for payment to his Majeſty and his ſucceſſors, of the ſum of 100 pounds, uſual money of the ſaid kingdom of Scotland yearly, for the ward, the like ſum for the non-entry, as much for the relief, and of the ſum of 200 pounds money above written, for the marriage of the heir or heirs, when the ſaid ward, non-entry, relief, and marriage ſhall happen to fall out and occur; and that as the proportional part correſponding to the ſaid lands, barony, and others above written, as now erected, as ſaid is, of the ſum of 200 merks money foreſaid, for the ward and nonentry, as much for the relief, and of the ſum of 400 merks money above written for the marriage, to which ſums, the former barony of Cromarty, comprehending, as well divers other lands and others, as the other lands and others above ſpecified, were taxed by his Majeſty's deareſt brother Charles II. of bleſſed memory, in favours of the ſaid Sir J. W. and of his heirs and aſſignees, conform to a charter granted by his Majeſty thereupon, under his Majeſty's great ſeal of the ſaid ancient kingdom, dated at —— the —— day of —— 17— years, and which proportional part, with other proportional parts payable by G. D. of St. out of the barony thereof, and by A. W. of N. out of the barony of N. and by Sir H. M. of P. out of the lands of B. all parts and pertinents of the ſaid ancient barony of Cromarty, as erected in the perſon of the ſaid Sir J. W. makes up, and completes the haill taxt-duty payable to his Majeſty and his ſucceſſors; and to which proportional part above mentioned, payable by the ſaid Sir G. M. and his foreſaids, as ſaid is, his Majeſty, with conſent foreſaid, by virtue of his prerogative royal, and of certain knowledge, and proper motive, and for good and acceptable ſervices performed to his Majeſty and his ſaid brother, by the ſaid Sir G. M. of new has taxed, and by theſe preſents, for his Majeſty and royal ſucceſſors, taxes the ſaid barony of Cromarty, comprehending, and as now erected, in manner above written, and now as if the ſame had already fallen out and occurred, and then as now, gives, grants, and diſpones to them the ſaid ward, nonentry, relief, and marriage, and all benefit, and all and ſundry caſualties thereof, in all time coming, whenſoever the ſame ſhall happen to fall out and occur, for payment of the proportional part of the taxt-duties above expreſſed, inhibiting and diſcharging hereby his Majeſty's Lord high treaſurer, Lord treaſurer-depute, his Majeſty's advocate, ſolicitor, collectors and under-receivers, and their ſucceſſors in place and office, and all others his Majeſty's miniſters, from all charging, purſuing, troubling and moleſting the ſaid Sir G. M. and his foreſaids, in any time coming, for, and by reaſon of the ſaid ward, nonentry, relief, and marriage, or either of them, except allenarly for the ſaid proportional part of the taxt-ward duty above mentioned: And his Majeſty, with conſent foreſaid, hereby gives full power and commiſſion to the ſaid Sir G. M. his heirs, aſſignees, and ſucceſſors, in the rights of the ſaid lands, barony, and others foreſaid, to raiſe and take out brieves forth of his Majeſty and his ſucceſſors their chancellary, and to obtain themſelves duly and lawfully ſerved, retoured, infeft and ſeiſed, as heirs in ſpecial to their predeceſſors therein, notwithſtanding of the nature of the holding, and that they be minors for the time, and without neceſſity of obtaining

any other warrant or diſpenſation for that effect; whereanent, and with the inqueſt, judge, members of court, and giver of the ſeiſin, and all that may follow thereupon, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his royal ſucceſſors, by theſe preſents, diſpenſes for ever, and admits and declares the ſame to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the ſame were doné and expede after their full and perfect age of twenty-one years complete, albeit not ſo done; whereanent alſo diſpenſes for ever: as alſo his Majeſty, with conſent foreſaid, hereby revokes, reclaims, recals, and annihilates all former donations of recognition, granted by his Majeſty's deareſt and right well-beloved brother, to any other perſon or perſons whatſoever, either of the ſaid lands, barony, and others above written, not expede the great ſeal of the ſaid ancient kingdom, or not perfected by regiſtered ſeiſin, and wills and declares the ſame to be void, and of no force, ſtrength, or effect, in all time coming, as if the ſame had never been granted: And in like manner, his Majeſty, with conſent foreſaid, hereby ratifies, confirms, and approves, all rights and ſecurities, of whatſoever nature and quality, date, tenor, or contents the ſame be of, made and granted by whatſoever perſon or perſons, to the ſaid Sir J. W. his heirs and ſucceſſors, of and upon the ſaid lands, barony, and others above written, or any part thereof, in the haill heads, articles, and clauſes thereof, and gifts, writs, and evidents, with the haill ſummonſes, acts, interlocutors, commiſſions, reports, and others whatſoever, led, acted, and done in the ſaid recognition, at the inſtance of his Majeſty's advocate, for his Majeſty's intereſt, with all that has followed, or might follow thereupon, and aſſigns, transfers, and diſpones the ſame in favours of the ſaid Sir G. M. and his foreſaids, with full power to them, in the final end and deciſion thereof, to proſecute and follow forth the ſame; and his Majeſty ordains his Majeſty's advocate to proſecute the ſaid recognition, for the uſe and behoof of the ſaid donator, and his foreſaids, and to concur therein, and for which theſe preſents ſhall be to him a warrant; and his Majeſty, by theſe preſents, with conſent foreſaid, wills and declares, that this preſent right is, and ſhall be but prejudice to the ſaid Sir G. M. and his foreſaids, of any other right, by appriſing, adjudication, rights of annualrent, infeftments for ſecurity of money, and other rights whatſoever, which now they have, or hereafter ſhall happen to acquire, of and concerning the ſaid lands, barony, and others above written, and that the ſaid other rights are and ſhall be but prejudice to them of theſe preſents, and infeftments to follow thereupon; and that it ſhall be ſtill leiſome and lawful to them, and in their power, to bruik and enjoy the ſaid lands, barony, and others foreſaid, and to aſcribe their poſſeſſion and intromiſſion to all or either of the ſaid rights, conjunctly and ſeverally, as accummulative or diſtinct rights, and that but any innovation or confuſion of rights: And farther, his Majeſty, with conſent foreſaid, by theſe preſents, declares, that no part of the ſaid Sir J. W. and of his ſaid ſon their eſtates, diſponed to the ſaid A. W. of N. Mr. T. and W. W. and G. D. of S. and H. D. commiſſary-clerk of R. his brother-german, or yet the quarter of D. with the pertinents, with other lands wadſet to W. G. of A. and acquired by the ſaid G. D. from J. G. his ſon, are comprehended in theſe preſents, and donation of recogni-

tion,

tion, but all, together with the ſaid G. D. and A. W. their heritable deputations of ſheriffſhip, and other privileges granted to them within their own proper lands and eſtates, in the ſaid ſheriffdom of C. excepted, and wholly and altogether reſerved to the ſaid perſons themſelves, and others having right from them, out of, and from this preſent donation, and in whoſe favours, and their heirs and ſucceſſors, his Majeſty, with conſent foreſaid, and of certain knowledge and proper motive, by theſe preſents, ratifies and confirms their reſpective rights and infeftments thereof, and diſpenſes with all nullities and imperfections, if any be, therein, for ever. And laſtly, his Majeſty faithfully promiſes, *in verbo principis*, to ratify and approve the ſaid charter, in the next enſuing parliament, requiring his Majeſty's eſtates of parliament to ratify the ſame accordingly; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at his Majeſty's court at Whitehall, the twenty-eighth day of March, and of his Majeſty's reign the firſt year 1685.

Nota, This was expede the ſeals, and ſeiſin thereon taken and regiſtered.

SIGNATURE, *narrating a former Charter granted by King Charles* II. *under the Great Seal, to the Perſons after named, of the Lands and Barony of T. and others, both Property and Superiority, belonging to G. W. of T. and J. M. of T. his Son, in their own favours, containing (for eminent ſervices) an Erection thereof in a Regality, Bailliary, and Juſticiary, with a Burgh of Regality, free Chapel and Chancellary, Power of Replegiation from all other Juriſdictions, ſuch as Sheriffs, Juſtice-General, &c. to their own Courts, Power of Eſcheats, creating Burgeſſes, and to a great Extent in puniſhing, and the ſeveral Kinds, with many more fit clauſes.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here inſert the conſents of the exchequer for the time being, but then in a treaſury, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, making mention, that his Majeſty, conſidering, and ſeriouſly perpending, that the late King Charles II. of bleſſed memory, by his charter, of the date at Whitehall the 30th day of September 1678, expede under the great ſeal, and with conſent of the Lords of his Majeſty's treaſury and exchequer for the time, gave, granted, diſponed, and for him and his ſucceſſors, perpetually confirmed, to his Majeſty's well-beloved G. now Viſcount of T. Lord M. and C. clerk to his Majeſty's councils, regiſters, and rolls, therein deſigned S. G. M. of T. knight and baronet, in liferent, and to J. now M. of T. his eldeſt lawful ſon, and to his heirs-male lawfully to be procreate of his body, in fee, which failing, to K. M. his ſecond lawful ſon, and to the heirs-male lawfully to be procreate of his body, which failing, to J. M. his third lawful ſon, and to the heirs-male of his body, which failing, to any other heirs-male lawfully to be procreate of the ſaid G. V. of T. his body, which failing,

to

to any other perſon or perſons, to be deſtinated and nominated by the ſaid G. V. any time during his lifetime, even on death-bed, by whatſoever writ or ſchedule apart under his hand, and which writ is declared by the ſaid charter, to be as good and fundamental right and title to the ſaid heirs of tailzie, ſo to be deſtinated and appointed, as ſaid is, ſucceeding heirs of tailzie in ſpecial, in the lands and eſtate after mentioned, and to be infeft thereupon, as if they were expreſſed by name and ſurname therein, with and under the conditions, proviſions, limitations, and reſtrictions therein contained, and all here holden as for expreſſed *brevitatis cauſa*, which failing, to the ſaid G. V. of T. his other heirs-male whatſoever, which all failing, to his heirs and aſſignees whatſoever, heritably and irredeemably, and with and under the other conditions, proviſions, limitations, and reſtrictions *reſpectivè*, alſo therein rehearſed, all and haill, and all and ſundry the lands, baronies, caſtles, towers, fortalices, mills, woods, fiſhings, teinds, and others *reſpectivè*, particularly under written, with the pertinents, *viz.* (*here all the lands, baronies, and many diſtinct lands, as well temporal as eccleſiaſtick, heritable offices of bailliary, burgh of barony, weekly markets, yearly fairs, patronages, teinds, and others were inſert, and then followed*) And moreover, all the ſaid lands, baronies, patronages of kirks and chaplainries, mills, woods, fiſhings, teinds, and others particularly above written, with the pertinents, were erected and incorporated by his ſaid late Majeſty, in a haill and free barony, to be called then, and thereafter, in all time coming, the barony of T. and ordained the manor-place of T. to be the principal meſſuage of the ſaid barony, and that a ſeiſin to be taken thereat, or upon the ground of any other part of the ſaid barony, by the ſaid G. V. of T. and his ſaid ſon and his foreſaids, then and in all time thereafter, to be ſufficient for the haill, to be holden of the ſaid late king and his ſucceſſors, in manner, and for payment of the reſpective and particular duties therein expreſſed; and according to the which charter, and precept of ſeiſin therein contained, the ſaid G. V. of T. and his ſaid eldeſt ſon, were infeft in the ſaid lands and barony, as then and now erected, and comprehending in manner above written: And farther, our Sovereign Lord, calling to mind the great obſequious and moſt acceptable ſervices done and performed by the ſaid G. V. of T. to the ſaid late king, as well as one of the Lords of ſeſſion ordinary, thereafter as Lord juſtice-general of his Majeſty's ancient kingdom of Scotland aforeſaid, as Lord regiſter, and moreover done and performed to his Majeſty himſelf thereafter, and in effect in all parliaments, convention of eſtates, and all other capacities, ſtations, and places in which he had occaſion, in evidence of his fidelity, and his conſtant and obſequious adherence to his Majeſty, to promote his dignity and intereſt; and his Majeſty, being deſirous and willing, out of his Majeſty's benignity and goodneſs, to confer a farther teſtimony of his royal bounty upon the ſaid G. V. of T. and the ſaid J. M. of T. his ſon, and their poſterity, and to prompt and animate them to perſevere and continue in the like dutiful ſervices for the future; therefore, his Majeſty, with conſent foreſaid, has not only ratified and approven, and for his Majeſty and his ſucceſſors, perpetually confirmed, likeas his Majeſty, by theſe preſents, with conſent above written, ratifies, approves, and for his Majeſty and his ſucceſſors, perpetually confirms to the ſaid G. V. of T. and

to

to the ſaid J. M. of T. his ſon, and their foreſaids, in liferent and fee *reſpective*, the ſaid charter, precept of ſeiſin therein contained, and inſtrument of ſeiſin following thereupon, in the haill heads, articles, and clauſes thereof, admitting the generality foreſaid, of the ſaid confirmation, to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, as if the ſame were, *de verbo in verbum*, herein inſert, albeit not ſo done, whereanent his Majeſty diſpenſes for ever: And, in like manner, his Majeſty, of his kingly power, certain knowledge, and proper motive, and by virtue of his prerogative royal, with conſent above written, for the cauſes, and upon the conſiderations above ſpecified, and that they may be the more ſtrengthened to procure obedience to his Majeſty's laws, and preſerve peace within the haill limits and bounds of the ſaid lands, barouies, and others foreſaid, and adminiſtrate juſtice therein, has united, erected, annexed, created, and incorporated, likeas his Majeſty, with conſent foreſaid, by theſe preſents, unites, erects, annexes, creates, and incorporates the ſaid barony of T. as the ſame was of late erected by the ſaid charter, and containing and comprehending all and haill the ſeveral other lands, baronies, mills, mill-lands, multures, and ſequels thereof, teinds, parſonages and vicarages, offices of bailliary, guards or offices of ſatellites, major or other like officers, woods, fiſhings, foreſtries, burgh of barony, weekly markets, yearly fairs, advocations, donations, and rights of patronages of the ſaid kirks and chaplainries, and others particularly and generally above ſpecified, with the caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, annexes, connexes, dependencies, tenants, tenantries, ſervices of free tenants, parts, pendicles, and pertinents thereof, in a haill and free regality, to be called, now and in all time coming, the regality of T. and ordains and appoints the ſaid burgh of barony of T. to be, now and in all time coming, the principal burgh of the ſaid regality, for all and ſundry the ſaid lands, baronies, mills, mill-lands, heritable offices, woods, fiſhings, patronages, teinds, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, outſets, inſets, annexes, connexes, dependencies, tenants, tenantries, ſervices of free tenants, parts, pendicles, and pertinents thereof whatſoever, and others particularly and generally above mentioned, with full power, liberty, privilege, and juriſdiction to the ſaid G. V. of T. during his lifetime, and likeways to the ſaid J. M. of T. his eldeſt lawful ſon, and to the heirs-male of his body, which failing, to the other perſons and heirs-male and of tailzie above ſpecified, and to their ſucceſſors and aſſignees, of a free regality, heritable office of bailliary and juſticiary within the haill bounds and limits of all and haill the ſaid lands and barony of T. as of late erected, and comprehending the ſeveral other towns, lands, baronies, mills, mill-lands, woods, fiſhings, foreſtries, patronages, teinds, parſonages, and vicarages, burgh of barony, heritable offices, and others particularly and generally above expreſſed, and of free chapel and chancellary within the ſame, for raiſing, emitting, proclaiming, ſerving, and retouring of brieves, with power alſo to them to build, have, and keep within the ſaid burgh of regality, called the burgh of barony and regality of T. as ſaid is, a tolbooth, and publick weigh-houſe, and market-croſs, at which all denunciations and executions of his Majeſty's letters, brieves, acts, proclamations, and edicts, which by the laws

laws of his ſaid Majeſty's ancient kingdom, are ordained and appointed to be expede, executed, publiſhed, and proclaimed at the market-croſs of the head burgh of regalities, are to be uſed, proclaimed, promulgated, executed, denounced, retoured, and publiſhed in all time coming, and that in all executions and diligences pertaining to the ſeveral inhabitants of the ſaid regality of the lands, baronies, and others above written, lying within the ſame, and belonging to the haill lands, baronies, and others foreſaid, and moveable goods within the haill bounds of the ſame, together with power to the ſaid G. V. of T. during his lifetime, and to the ſaid J. M. of T. and to the heirs-male of his body, which failing, to the other heirs-male and of tailzie above mentioned, by themſelves and deputes, to be nominated and appointed by them, to nominate, create, conſtitute, and ordain baillies and deputes, clerks, majors, officers, dempſters, and other members of court neceſſary for adminiſtration of juſtice within the haill bounds of the ſaid barony and regality of T. comprehending in manner foreſaid, and for whom they ſhall be anſwerable, and with power alſo to them, by themſelves, and deputes to be nominated and appointed by them, to hold and affix courts of regality within the ſaid burgh of T. now alſo head burgh of the ſaid regality, or upon any other part or place within the ſaid regality, and the ſaid courts as oft and how oft as need beis, to continue, and to adminiſtrate juſtice within the ſaid regality, and haill bounds thereof, to all perſons complaining and having intereſt, malefactors and tranſgreſſors of laws to apprehend, examine, proſecute, and incarcerate, and to bring them to the knowledge of an aſſize, for crimes of whatſoever nature or quality competent, to be judged by his Majeſty's laws of the ſaid ancient kingdom, and that by hanging up, beheading, whipping, dipping, or drowning in water, diſmembration, fining, impriſonment, baniſhment, or extermination out of the ſaid regality, or by eſcheat of moveable goods, or by any other puniſhment or manner thereof uſed and wont and by the laws and practique of the ſaid kingdom allowable, and to collect, receive, and exact the eſcheats, fines, and amerciaments of the ſaid courts, as alſo the tolls, cuſtoms, profits, fees, and emoluments of the ſaid tolbooth, market-croſs and weigh-houſe, and the ſame for their own proper uſes to apply, and in like manner, with power to them and their foreſaids, continually in all time coming, to repledge all the inhabitants within the bounds of the ſaid regality, from all and ſundry courts and judges before which they ſhall happen to be called, convened, and purſued, to the privilege and juriſdiction of the ſaid regality of T. in which courts they are to be judged, and for that effect, to find caution of culriach for adminiſtration of juſtice to the parties complaining within term of law: And farther, his Majeſty, with conſent foreſaid, exeems and liberates always and continually, in all time coming, the tenants and inhabitants of the ſaid barony and regality of T. comprehending in manner above written, from all judgments and juriſdictions of all ſheriffs, juſtice-general, and of their deputes, and of the commiſſioners of his Majeſty's juſticiary, and from all other judges within the ſaid ancient kingdom, as well in criminals as civil actions, ſicklike, and as freely in all reſpects as any other tenants and inhabitants of whatſoever regality within the ſaid kingdom have been formerly, are, or ſhall be exempted, and to gift, diſpone, uplift, receive, and exact all and ſundry

eſcheats,

eſcheats, of all and ſundry the tenants and other inhabitants within the ſaid regality, as well ſingle as liferent, with the haill other caſualties, that thereanent, or otherways within the ſame, or any part thereof, ſhall happen to fall out and occur, and to apply the ſame to their own proper uſes; and in like manner, with full and moſt ample power of having, admitting and receiving within the ſaid burgh of regality, free burgeſſes, artificers and mechanicks, with power alſo to the ſaid free burgeſſes, to pack and peill within the ſaid ancient kingdom, and to buy and ſell wine, wax, linen, plaiding, and cloth, broad and narrow, and all other goods and merchandize, and to hold and keep within the ſaid burgh of regality, fiſhers, fleſhers, brewers, ſalters and packers of fiſh, tailors, ſhoemakers, litſters, waukers, wrights, maſons, maltmen, ſmiths, ſaddlers, painters, ſlaters, webſters, carpenters or ſhipwrights, glaſiers, and all other artificers and mechanicks whatſoever, and to hold and keep within the ſaid burgh of regality, the ſaid weekly markets, and yearly fairs, to which, by the ſaid act of parliament and charter under the great ſeal, they have right, and with all and ſundry other liberties, privileges, immunities, profits, commodities, duties and caſualties whatſoever, as well not named as named, pertaining and belonging, or that by the laws and practique of the ſaid ancient kingdom, are or ſhall be known to pertain and belong to any other free regality, heritable office of bailliary and juſticiary, or free chapel or chancellary within the ſaid ancient kingdom of Scotland, any time bygone or to come; and ſicklike, his Majeſty, with conſent foreſaid, has united, annexed, created and incorporated, and by theſe preſents, for his Majeſty and his ſucceſſors, unites, annexes, creates and incorporates the ſaid heritable office of regality, and burgh of regality above written, and haill privileges thereof above ſpecified to the ſaid barony of T. comprehending, in manner foreſaid, for ever, in all time coming, and wills, decerns and ordains, that a ſeiſin to be taken by the ſaid G. V. of T. and his ſaid eldeſt ſon, and their foreſaids, now and in all time coming, at the ſaid manor-place of T. or upon the ground of any other part of the ſaid barony, is and ſhall be as valid a ſeiſin to them, not only for the ſaid barony itſelf, comprehending, as ſaid is, but alſo for the ſaid regality, burgh of regality, juriſdictions, privileges, emoluments, profits and caſualties thereof, now erected and incorporated with the ſaid barony, as above expreſſed, as if a particular ſeiſin were taken by them upon each part and portion of the ſaid barony, burgh of barony and regality, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, and with the diſcontiguity of the ſame, his Majeſty, with conſent foreſaid, has diſpenſed, and for his Majeſty and his ſucceſſors, by theſe preſents, diſpenſes for ever; and farther, admits and declares, wills, decerns, and ordains the ſaid erection of the ſaid regality and burgh of regality, the way and manner above written, to be as valid and ſufficient, and of as great force, ſtrength, and effect, for all intents and purpoſes, to the ſaid G. V. of T. and his eldeſt ſon, and their foreſaids, now and in all time coming, as if they had reſigned the ſaid barony of T. in his Majeſty's hands, and had obtained a charter under his Majeſty's great ſeal of the ſaid ancient kingdom expede thereupon, containing and including the ſaid regality, burgh of regality, and privileges, liberties, immunities, profits and

duties above mentioned, belonging thereto, and they accordingly infeft in the haill barony, regality, burgh of regality, and others foresaid, albeit not so done; whereanent, and with all that may follow thereupon, or that may be objected against the validity of the same, his Majesty, with consent above written, has dispensed, and by these presents, for him and his royal successors, likeways dispenses for ever, to be holden, and for to hold the said regality, bailliary, justiciary, burgh of regality, privileges, immunities, profits and casualties thereof above mentioned, to the said G. V. of T. his said son, and their foresaids, heritably, in all time coming, of his Majesty and his Majesty's successors, in free regality, bailliary, justiciary, free burgh of regality, free chapel and chancellary, fee and heritage for ever, with all privileges, immunities, profits and casualties above specified, or any other manner of way belonging, or which shall be known to pertain and belong to any other regality, bailliary, justiciary, or burgh of regality within the said kingdom, by the laws and practique thereof, at any time bygone or to come, freely, quietly, *&c.* but revocation, *&c.* giving yearly the said G. V. of T. his said eldest son, and their foresaids, to his Majesty and his royal successors, for the said burgh of regality, and heritable offices of regality, bailliary and justiciary, one penny Scots money, at the feast of Whitsunday, in name of blench-farm, if it be asked allenarly, and administrating justice to his Majesty's subjects in due time, for all other burden, exaction, question, demand, or secular service, which may be hereafter any ways asked or required forth thereof, and but prejudice to his Majesty and his successors of all other feu-duties, tax-duties, and other duties, due and payable to his Majesty, as superior, out of the said barony of T. comprehending in manner foresaid, and contained in the said G. V. of T. and J. M. of T. their charter aforesaid under the great seal, at any time before the granting of these presents; and it is hereby declared, that these presents shall not prejudge the bishop of Ross, and his successors in the said bishoprick, as to any superiority and jurisdiction they have of any of the said lands holden of them. And lastly, his Majesty faithfully promises, *in verbo principis*, to ratify the said charter, with the instrument of seisin to follow thereupon, in the haill heads, articles and clauses thereof, in this or subsequent sessions of parliament of the said ancient kingdom, requiring his Majesty's estates of parliament to ratify the same accordingly; and that the said charter be extended in most ample form, with all clauses needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

SIGNATURE

SIGNATURE *of the Lands and Barony of F. and ſeveral other Lands, Lordſhips, Baronies, Tenandries, Tenements, Ports, Harbours, Provoſtries, Prebendaries, Teinds, Parſonage and Vicarage, Annuities of the ſaid Teinds, Offices of Bailliary, and many good and great Privileges, and containing Lands in real Warrandice, for ſome of the Lands principally diſponed, with ſome Limitations as to the Duration thereof, containing alſo ſeveral Rights of Annualrents affecting a Part of the Lands principally diſponed, and as acquired, ſo made uſe of as diſtinct Rights from the Property* in meliorem ſecuritatem, *and declared to be without confuſion of Rights, or conſolidation of the Rights of Annualrent, with the Property, in favours of Sir J. N. of D. and Heirs-Male of his Body, which failing, in favours of his other Heirs of Tailzie after expreſſed, and many things are therein obſervable, as Erections of the ſeveral Lordſhips, Baronies and Tenandries, as they were* ab antiquo, *and how, by new Acquiſitions from time to time, theſe, by new Erections, were enlarged, and ſtill with the ſame Privileges, yea, containing Burghs of Barony, weekly Markets, and yearly Fairs, Erection of ſome Places in Sea-Ports and Harbours, with Tolls, Cuſtoms, and all other Privileges, Salt-Pans, Coal-Heughs, Enlargement of Paſture and Paſturages, and getting Coal in another Proprietor's Ground, upon Payment, and the Privilege of Paſſages to and from the ſame. It contains Patronages of Kirks, Provoſtries and Prebendaries, diſpenſing with Irritancies in caſe of not punctual Payment of Feu-Duties, only to poind the Ground, converting or reſolving a Taxt-Ward to Blench, and many more Noble and Royal Benefices, and all for great and eminent Services to the Crown, and no doubt ratified in Parliament.*

OUR SOVEREIGN LORD, for himſelf as king, and likeways as prince and ſteward of Scotland, with the ſpecial advice and conſent of (*here the conſents were inſert by a Lord high treaſurer and treaſurer-depute, being the conſtitution for the time, and then the conſents of the other Lords of exchequer*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of his Majeſty's ancient kingdom of Scotland, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors, kings, princes and ſtewards of Scotland, perpetually confirming, likeas his Majeſty, for himſelf as king, and likeways as prince and ſteward of Scotland, and his ſucceſſors, kings, princes, and ſtewards of Scotland, by theſe preſents, gives, grants, and diſpones, and perpetually confirms to his truſty and well-beloved Sir J. N. of D. knight, and to the heirs-male of his body, which failing, to the heirs-female procreate or to be procreate of his own body, or deſcending of his own body, the eldeſt being always preferable, and ſucceeding without diviſion, which failing, to ſuch perſons one or more, which the ſaid Sir J. N. has nominated and deſigned, or ſhall nominate, deſign or deſcribe, in any writ by him ſubſcribed or to be ſubſcribed, to be heirs of tailzie, and to ſucceed to him in the eſtate after mentioned, failing of heirs-male and female deſcending of his own body, and with and under ſuch proviſions, conditions and reſtrictions, as to the ſaid Sir J. N. ſhall ſeem expedient, which the perſon ſo deſigned, or to be deſigned, ſhall be holden to perform and fulfil, and the

ſaid writ ſhall be as valid and ſufficient, as if in theſe preſents inſert and ingroſſed; and if no ſuch writ made the time of the deceaſe of the ſaid Sir J. N. or if it ſhall happen the ſame to be revoked or altered by him, or failing of the perſon ſo deſigned, or to be deſigned, then to the lawful and neareſt heirs-male whatſoever of the ſaid Sir J. N. which failing, to ſuch perſons, and for ſuch uſes as the ſaid Sir J. N. has deſigned and appointed, or ſhall deſign and appoint by charter or writ ſubſcribed or to be ſubſcribed by him, and with and under ſuch proviſions and conditions as he ſhall eſteem fit and congruous at any time in his lifetime, which ſhall be repute and holden as valid, as if inſert and ingroſſed in theſe preſents; and failing ſuch deſignation, or being made, and thereafter cancelled or revoked, then to the neareſt and lawful heirs and aſſignees whatſoever of the ſaid Sir J. N. heritably, the eldeſt heir-female ſtill ſucceeding, without diviſion, under the proviſions, conditions, declarations, reſtrictions and limitations after mentioned, and no otherways, all and ſundry the lands, lordſhips, baronies, and others under written, *viz.* all and haill the lands, lordſhip and barony of F. containing and comprehending all and ſundry the lands, baronies, and others after ſpecified, *viz.* (*here all comprehended, and ſome annualrents upliftable forth of ſome lands were inſert*) and ſicklike all and haill the lands and barony of D. comprehending in itſelf the lands and others underwritten, *viz.* (*here all belonging to the ſaid barony and patronage of the proveſtry of D. and the lands and tenandry of K. comprehending the lands, tenements, churches, teinds and others under written,*) viz. (*here were inſert all the lands and and others belonging to the ſaid tenandry, and the church of G. with the parſonage teinds and other teinds, and being a part of the abbacy of D. all erected in a tenandry, called the T. of K.*) and which haill lands, baronies, and others *reſpectivè* above ſpecified, were erected in a free lordſhip and barony, called the lordſhip and barony of F. by virtue of the infeftment thereof granted by his Majeſty's moſt illuſtrious grandfather King James VI. of glorious memory, to umquhile T. E. of K. and that as for the principals, and ſicklike all and haill the lands and barony of T. comprehending the lands and others under written, of the lands and lordſhip of S. *viz.* (*here the lands were particularly ſet down, and then*) all united in one barony, called the barony of C. by virtue of the infeftment thereof granted by his Majeſty's deceaſed grandfather, before named, to the ſaid T. E. of K. and by him to, *&c.* and that in ſpecial warrandice and ſecurity of all and haill the ſaid lands and barony of D. comprehending the particular lands and others above expreſſed, which of old belonged to the ſaid E. of G. in manner ſpecified in the rights and ſecurities thereof, made to the ſaid J. E. of D. and by him to the ſaid J. M. And farther and principally the burgh of barony of D. with the haill liberties, *&c.* pertaining and belonging thereto, all erected in a free lordſhip and barony, called the lordſhip and barony of F. and by virtue of the charter granted by his Majeſty's moſt ſerene father of glorious memory, to the ſaid J. E. of D. therein deſigned J. M. of I. one of his Majeſty's deareſt father's bed-chamber, dated at Greenwich the 4th of June 1631, and whereby it is ordained and appointed, that the ſaid tower, fortalice, and manor-place of F. ſhall be the principal meſſuage of the ſaid lordſhip and barony, and that a ſeiſin to be taken thereat ſhall ſtand, and be a ſufficient

cient ſeiſin for the haill lands, lordſhip and baronies, burgh of barony, and others *reſpectivè* above mentioned, as well principally as in warrandice diſponed, as is above expreſſed, and every part thereof, notwithſtanding they ly not together and contiguous, but in divers ſheriffdoms and juriſdictions. *Nota*, After this, there followed ſeveral patronages, tenements, acres, teinds and annuities thereof, and many of which belonged to vaſſals, who reſigned the property in the ſuperiors hands, *ad remanentiam*, and all thereafter erected in a haill and free lordſhip and barony, called the lordſhip and barony of F. whoſe tower, fortalice, and manor-place of F. *alias* called Overſideſerf, is ordained to be the principal meſſuage, and ſeiſin to be taken thereat, ordained to ſtand, and be a ſufficient ſeiſin for all and ſundry the lands, lordſhip, baronies, burghs of barony, tenandry, patronages, teinds, and others particularly and generally above recited, diſponed as well principally as in warrandice, and for every part thereof, conform to a charter granted by his dearеſt brother, under the great ſeal, to the ſaid Sir J. N. thereupon, of the date the 29th day of February 1664; and ſicklike, giving, granting and diſponing, and for his Majeſty and his ſucceſſors, kings, princes and ſtewards of Scotland, perpetually confirming, likeas his Majeſty, by theſe preſents, for himſelf as king, and as prince and ſteward of Scotland, gives, grants and diſpones, and for his Majeſty and his ſucceſſors, kings, princes and ſtewards of Scotland, perpetually confirms to the ſaid Sir J. N. and heirs-male of his body, which failing, to the heirs-female procreate or to be procreate, or deſcending of his body, the eldeſt ſtill to be preferred to the reſt, and ſucceeding without diviſion, as ſaid is, under the proviſions, conditions, declarations, reſtrictions and limitations after mentioned, and no otherways, all and haill, the lands, lordſhip and barony of J. *(here the reſt were inſert)* lying within the E. of H. and ſheriffdom of E. and by annexation within the barony and ſheriffdom of R. together with the privileges and paſtures in the muirs thereof adjacent, and office of bailliary of the ſame, and other liberties, immunities and caſualties of the ſaid lands and office whatſoever, particularly and generally ſpecified, and contained in the infeftments thereof granted to the deceaſed A. H. ſometime of J. Knight, thereupon; and all and haill the teinds, parſonage and vicarage of the lands, barony, mill-lands, and others above expreſſed, which are a part of the teinds, parſonage and vicarage of the pariſh kirk and pariſh of J. and were of old a part of the abbacy of P. and thereafter pertained to J. E. of A. as a part and pertinent of the lordſhip of P. together alſo with advocation, donation, and right of patronage of the ſaid pariſh kirk and pariſh of J. lying within the C. of H. and ſheriffdom of E. and in like manner, the two temple-lands, lying in the town of J. *&c.* with the privileges and paſturages in the muirs thereof adjacent, with the office of bailliary of the ſame, and other liberties, immunities, and caſualties of the ſaid lands, and office whatſoever particularly and generally ſpecified and contained in the infeftments thereof, granted to I. E. of D. and his authors thereupon, with all and ſundry the teinds, *&c.* lying, *&c.* as alſo the burgh of barony of I. and weekly markets thereof, to be holden the —— day of —— and two free fairs of the ſame, either of them to continue for the ſpace of two days, the one thereof to begin the

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—— day of —— called —— and the other of the ſaid fairs, beginning the —— day of —— called —— fair yearly, and the ſea-port or harbour of I. together with the haill privileges, liberties, immunities, tolls, cuſtoms, anchorages, ſhore, ſilver, dock-mail, ground leave, and all other duties, accidents and caſualties of the ſaid burgh of barony, weekly markets, and yearly fairs thereof, and of the ſaid ſea-port and harbour of I. particularly and generally mentioned in the infeftments granted thereupon by his Majeſty's deareſt father Charles the firſt, of bleſſed memeory, for himſelf as king, and as prince and ſteward of Scotland, to the ſaid deceaſed J. M. thereafter E. of D. and his ſpouſe and their foreſaids, dated at Whitehall the 22d day of May 1630; which lands, barony, lordſhip, teinds, temple-lands, burgh of barony, markets, fairs, and others above ſpecified, with all their privileges, liberties, &c. all united in a free barony, called the barony of I. and a ſaſine at the manor-place of I. ordained to be ſufficient for all and haill the ſaid lands, lordſhip, barony, teinds, temple-lands, burgh of barony, markets, fairs, ſea-ports and others above written, with all their privileges, &c. conform to the charter granted by his Majeſty's father Charles the firſt, of bleſſed memory, to the ſaid J. M. of I. thereafter Earl of D. therein deſigned one of the bed-chamber, and to umquhile E. D. B. his ſpouſe, their heirs and aſſignees therein ſpecified, dated the 30th day of September 1641. And likeways all and haill the lands and barony of T. *(here the reſt were inſerted)* with all their privileges, lying formerly within the C. of H. and ſheriffdom of E. and now by annexation within the ſheriffdom of R. and bears alſo this general clauſe, together with all other lands of whatſoever other name, holding, or deſignation they be of, lying within the ſaid lands of T. comprehending as ſaid is, together alſo with the privilege of commonty and common paſture, and privilege of pulling and taking away of heather, and of caſting, winning and leading away fewel, feal and divot in the muir called —— and broken moſs, and in all other moſſes, muirs and bounds, as the heritor and tenants of the lands and other foreſaid, were in uſe, with the coals, coal-heughs, limeſtone-quarries, and free-ſtone-quarries, ſalt-pans, and ſalt-girnals, mills-dams, aqueducts, and all other lands, houſes, tenements, and others whatſomever, lying in the ſaid pariſh of I. to which J. W. now of G. for himſelf, and as heir of the deceaſed Sir P. W. his father, had right, by whatſoever manner of way, of whatſoever name or deſignation they be of, with the burial-place and deſks, rooms and places in the church of I. belonging to the ſaid ſeveral baronies: And in like manner, all and haill the teinds, parſonage and vicarage of the ſaid lands and barony of T. and pertinents thereof above diſponed, which are a part of the teinds, parſonage and vicarage of the ſaid pariſh church, and pariſh of I. excepting always *(here ſeveral lands, both property and ſuperiority, and teinds, were excepted, notwithſtanding they were contained in the former charter, and then the draught of the ſignature bears the reſervation following:)* And farther, reſerving to the ſaid Sir W. R. of D. and his ſucceſſors in the ſaid barony of D. and their tenants, liberty and privilege freely to win, lead, and away-take ſtone and lime out of whatſoever going quarries, within the ſaid lands of T. or quarries within the

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ſea-marks, with free iſh and entry to and from the ſame, by the ordinary ways and paſſages, which the ſaid Sir J. N. and his foreſaids, from time to time, ſhall be obliged to make patent, and that for the proper and particular uſe of the tenants and labourers of the ground of the ſaid lands and barony of D. allenarly, providing always, that the ſaid Sir J. N. and his foreſaids, and their tenants, (for the reſervation above mentioned) ſhall have full power and liberty, firſt and before all others to be ſerved, and to have coals out of the coal-heughs of D. for the uſe of their lime-kills, with free iſh and entry from and to the ſaid coal-heughs, through the ordinary paſſages, and that the ſaid Sir W. R. and his heirs and ſucceſſors in the ſaid lands and barony of D. ſhall be bound and obliged, upon all occaſions, from time to time, to render the ſame patent and open to the ſaid Sir J. N. and his foreſaids, and their tenants, paying the ordinary price for the ſaid coals; and alſo to tolerate and permit the ſaid Sir J. N. and his foreſaids, and their tenants of the ſaid lands and barony of T. to uſe the ſaid liberty according to the proviſion and obligation granted thereanent, of the ſaid lands and barony of T. by the ſaid Sir W. R. to the ſaid Sir P. W. of G. and to the ſaid J. W. now of G. his ſon, and contained in their infeftment following thereupon under the great ſeal, which lands, mills, and others above written, (excepting as is above excepted) are united in a haill and free barony, called the barony of T. and the tower of W. ordained to be the principal meſſuage of the ſaid barony, and a ſaſine thereat, or upon the ground of any part of the ſaid lands, declared to be ſufficient for the haill, conform to a charter granted by his Majeſty's deareſt brother, of moſt bleſſed memory, to the ſaid deceaſed Sir P. W. in liferent, and his ſaid ſon, and to the heirs, ſucceſſors and aſſignees therein ſpecified, dated at Whitehall the 10th day of July 1670. And moreover, all and haill an annualrent of —— and another annualrent of —— money of the ſaid kingdom of Scotland, both to be uplifted yearly at the feaſt of Whitſunday and Martinmas, by equal portions, forth of all and ſundry the ſaid lands and barony of D. and T. with the pertinents thereof acquired by the ſaid Sir P. W. of G. from Sir T. M. of G. who had right thereto from M. T. H. rector of A. and alſo an annualrent of —— yearly, to be uplifted at the terms, and by equal portions, as ſaid is, forth of the ſaid lands and baronies of D. and T. or any part thereof acquired by the ſaid deceaſed Sir P. W. from P. B. of C. as for the principal: And likeways all and haill the lands and barony of F. comprehending the particular lands, mills, woods, fiſhings, and others particularly underwritten, *viz.* All and haill the lands of F. *(here ſeveral other lands, patronage and teinds were inſerted)* in ſpecial warrandice and ſecurity to the ſaid Sir J. N. and his foreſaids, of all and haill the ſaid lands and barony of J. with the pertinents, lying as ſaid is, and with the privileges and paſturages in the muirs adjacent thereto, and offices of bailliary, and other liberties mentioned in the infeftment thereof granted to the ſaid Sir P. W. of G. and likeways in warrandice (under the proviſions, conditions, declarations, reſtrictions and limitations after mentioned, and no otherways) all and haill the lands and barony of D. *(here ſeveral other lands and*

others

others were inſerted, and then the ſtile bears) and that in real warrandice and ſecurity to the ſaid Sir J. N. and his above ſpecified, of the ſaid lands and barony of T. with the pertinents thereof above mentioned, principally diſponed for warranting thereof as to all cautionries, and other debts reſting by the ſaid Sir W. R. of D. ay and while the ſame were truly and really purged, and the ſaid Sir J. N. and his foreſaids, liberate of all expences, prejudice and damage, which they from thence ſhall ſuſtain; ſo if they, or any of them, were troubled or moleſted in the peaceable poſſeſſion of the ſaid lands and barony of T. with the pertinents, or in uplifting the rents and duties thereof, then, and in that caſe, they ſhall have full and free ingreſs and acceſs to the ſaid lands and barony of D. with the tower, mill, and pertinents, and to the uplifting of the mails and duties thereof, at leaſt as much of the ſame as ſhall adequate and correſpond to the moleſtations, perturbations, and evictions for the ſaid lands and barony of T. with the pertinents thereof, principally diſponed, and until they bruik and enjoy the ſame freely and quietly, without any diſtrictions, moleſtations, or perturbations, and no longer, after which they ſhall be holden to denude themſelves of the ſaid right of warrandice and infeftment following thereupon, in ſo far as concerns the barony of T. in favours of the ſaid Sir W. R. of D. his heirs and aſſignees, *omni habili modo quo de jure*, with warrandice from their own proper facts and deeds allenarly; with this expreſs proviſion, that notwithſtanding the property of the ſaid lands and barony of T. be hereby eſtabliſhed in the perſon of the ſaid Sir J. N. yet nevertheleſs, the right of the ſaid yearly annualrents of —— and —— merks *reſpectivè* above mentioned, are not extinguiſhed nor confounded with his ſaid right of property, but ſhall remain entire and diſtinct from the ſame; and it ſhall be lawful to the ſaid Sir J. N. and his foreſaids, to infeft themſelves with, and to uſe the preſent right of the ſaid annualrents, and the ſaid right of property for ſecuring and defending themſelves in the poſſeſſion of the ſaid lands and barony of T. the one but prejudice of the other, and without any confuſion or conſolidation of the ſaid rights, with and under the proviſions, conditions, declarations, reſtrictions and limitations after mentioned, *viz.* That if the ſaid lands and baronies above mentioned, fall to the heirs-female procreate or deſcending of the body of the ſaid Sir J. N. that ſhall be unmarried the time of their ſucceſſion, in that caſe, the ſaid heir-female ſhall be holden to marry a gentleman of the ſurname of N. or of any other ſurname, who, and the children to be procreate of any ſuch marriages, ſhall be holden to aſſume, uſe, clothe themſelves with, and retain the ſaid ſurname of N. and proper arms of the ſaid Sir J. N. and if the ſaid heirs-female be married the time of their ſucceſſion, they and their huſbands and children ſhall be holden and obliged to aſſume, uſe and retain the ſaid ſurname and arms; and if the ſaid heirs-female, or their deſcendents, of whatſoever ſex, whether males or females ſo ſucceeding, if they do not aſſume, or deſiſt to uſe, bear and carry the ſaid ſurname and arms, then and in theſe caſes, they ſhall forfeit, amit and tine their right and intereſt in the ſaid lands, baronies, and others above diſponed, for themſelves, and the ſame ſhall pertain, go, and be devolved upon the next perſon deſcending of the body of the

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ſaid Sir J. N. who ſhould ſucceed for the time after contravention, and that whether deſcending of the body of the contravener or not. *And in like manner*, by theſe preſents, it is expreſly provided and declared, that it ſhall be no ways lawful, either to the heirs of the ſaid Sir J. N. his body, or deſcending of them, or to the other heirs of proviſion, or any of them already named and deſigned, or to be nominated or deſigned by the ſaid Sir J. N. in any time coming, to ſell, annalzie, or diſpone the lands, baronies, and others above recited, or any part thereof, either irredeemably, or under reverſion, by granting wadſets or infeftments of annualrent, or to burden or affect the ſame by any ſervitude, or other burden, or to ſet tacks or rentals for longer ſpace than their own lifetimes, or their intereſts, or for any other duty than the ordinary duty for the time payable; nor ſhall it be lawful, nor in the power of any of them, to contract debt, nor to do any other deed, by which the ſaid lands, baronies, and others above ſpecified, or any part thereof may be appriſed, adjudged, or any other manner of way evicted or forfeited, in prejudice of the ſaid tailzie, or of any other tailzie, deſtinations, or deſignations made, or to be made by the ſaid Sir J. N. or in favours of thoſe who, by virtue thereof, are to ſucceed; and if they, or either of them, ſhall do any fact or deed in the contrary of the ſaid proviſions, or by diſponing, or committing any crime, delict or defect, or by contracting debt, or by committing any fact or deed, the ſaid facts and deeds, and all and each of them, ſhall not only be void and null, in ſo far as concerns the ſaid lands, baronies, and others above mentioned, ſo as the ſame ſhall not be affected therewith, in prejudice of the heirs of tailzie and proviſion ſucceeding, ſeeing theſe preſents, in manner, and with the proviſions above ſpecified, and no other ways, are granted; and likeways, the contraveners (if they be of the ſaid Sir J. N. his body, or of them deſcended) ſhall only (for themſelves only and allenarly) forfeit and amit the right to the ſaid eſtate, and the ſame ſhall appertain and belong to the neareſt perſon who afterwards may ſucceed, albeit deſcending of the body of the contravener, if any be; and if the contraveners be not deſcended of the ſaid Sir J. N. his body, then they, for themſelves, and their deſcendents, ſhall amit and forfeit their right and intereſt in the lands, baronies, and others above diſponed, and the ſame ſhall devolve, deſcend, and pertain to the perſon who ſhall be neareſt, and ſhall have right of ſucceſſion thereto, by virtue of the ſaid diſpoſition and deſtination, free from all debts, facts and deeds done and contracted by the contraveners; and it ſhall be lawful to the perſon having right to ſucceed, either to obtain declarators upon the committing and contravening, or coming in the contrary, of the ſaid clauſes irritant, and proviſions, declaring and adjudging the ſaid lands, baronies, and others above ſpecified, to pertain to them and their foreſaids; and decerning and ordaining the ſuperiors to infeft them therein, or to obtain themſelves ſerved, retoured, infeft and ſeiſed in the lands, baronies, and others above written, as heirs to the perſons who died laſt veſt and ſeiſed in the ſame before the contravention, in reſpect that the right of the contravener ſhall be diſſolved and extinct from the time of the contravention, in the ſame way and manner as if the ſame had not been granted to them, or any other manner of way which formally and legally may be done for conſtituting and eſtabliſhing

the ſaid right in their perſon; as alſo, with this proviſion, that if any of the ſaid heirs of tailzie, owed, or ſhall contract any debt, or be liable to debt or deeds before their ſucceſſion, or ſhall happen them to be obnoxious for themſelves, or as repreſenting any others, or for any other cauſe; in that caſe, it is hereby declared, that the ſaid debts ſhall be void, in ſo far as concerns the lands, baronies, annualrents, and others above rehearſed, and the ſaid heirs ſhall be holden to pay the ſame, and liberate themſelves thereof; and if the ſaid eſtate, or any part thereof, ſhall happen to be appriſed or adjudged for any ſuch debts, and that the ſame ſhall not be redeemed within the ſpace of two years after the date of any ſuch appriſing or adjudication; in that caſe, the ſaid perſon, if of the ſaid Sir J. N. his body, or deſcending thereof, for himſelf only, ſhall forfeit and amit his own right to the ſaid eſtate, and the ſame ſhall pertain to the next perſon who would ſucceed, albeit deſcending of the body of the contravener; and if the contraveners are not deſcended of the ſaid Sir J. N. his body, then they, and the deſcendents of their bodies, ſhall forfeit and tine their own right and intereſt in the ſaid eſtate, and the ſame ſhall pertain to the perſon who is neareſt in ſucceſſion for the time, as ſaid is: And notwithſtanding the proviſions above mentioned, yet, nevertheleſs, it is declared, by theſe preſents, that the ſaid heirs or deſcendents of the ſaid Sir J. N. his body, or other heirs male of tailzie and proviſion above written, ſhall have power of providing their wives to competent liferent proviſions, in ſo much of the lands, teinds, and others diſponed, or any other lands or teinds, which fall to them by deceaſe of the ſaid Sir J. N. as will not exceed in victual and money —— chalders of victual, or as much of victual as may be juſtly eſtimated to —— merks money of Scotland, whereas the ſaid wives ſhall no ways be infeft nor ſecured in any annualrent, to be uplifted forth of the ſaid eſtate, or any part thereof, but to the ſum which they ſhall be provided of ſo much yearly duty, in manner foreſaid, ſo as they themſelves may uplift and receive the ſame, and the ſucceeding heirs of tailzie are not obliged in payment thereof, nor the lands, and others above written, thereafter affected therewith: *Declaring* always, That neither the reliet of any of the ſaid heirs, nor the huſbands of the heirs-female outliving them, ſhall have right to any terce or courteſy of the ſaid lands, baronies, and others above expreſſed, or any part thereof, but ſhall be and are altogether ſecluded from the ſame, notwithſtanding of any law or conſuetude in the contrary; which haill lands, lordſhip and barony of F. comprehending the ſaid lands, baronies, teinds, and others above mentioned, pertained heritably of before to the ſaid Sir J. N. holden by him immediately of his Majeſty as king of Scotland, and were duly and lawfully reſigned by him, and his lawful procurators in his name, to that effect ſpecially conſtitute, and patent letters in the hands of the Lords of exchequer of his ſaid Majeſty's deareſt brother, within the ſaid kingdom, having full power to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments, as in his Majeſty's hands, immediate lawful ſuperiors thereof, purely and ſimply, by ſtaff and baſton, as uſe is, together with all right, title and intereſt, claim of right, property and poſſeſſion, petitor and poſſeſſor, which the ſaid Sir J. N. had, or any ways might claim or pretend thereto, or any part thereof, in favours, and

for

for new infeftment thereof, to be made and granted to the ſaid Sir J. N. and his foreſaids, by his Majeſty, under his Majeſty's great ſeal of the ſaid kingdom, by virtue of, and conform to the procuratory of reſignation granted by the ſaid Sir J. N. dated the — day of —— 17— years, for reſigning the lands, lordſhip and baronies above written, in manner and to the effect above mentioned, as authentick inſtruments taken thereupon in the hands of —— notary-publick, the —— day of —— 17— years, more fully proport; and likeways in a court of appriſing, holden by diſpenſation anent the place, within the new ſeſſion-houſe of Edinburgh, before —— meſſenger, judge and ſheriff in that part, and his colleagues, upon the — day of —— 17— years, the ſaid lands, lordſhip and barony of F. were duly and lawfully appriſed from the deceaſed J. M. V. of C. and thereafter Earl of S. at the inſtance of the ſaid Sir J. N. in payment and ſatisfaction to him of the ſums of money, principal, annualrents, and expences, contained in the decreet of appriſing, led and deduced thereanent, extending in the haill to the ſum of — Sterling money of principal, with the ſum of — money foreſaid of ſheriff-fee correſponding thereto, *ſalvo juſto calculo*, in both the ſaid ſums, as in the proceſs and decreet of appriſing led and deduced thereupon, ſeen and conſidered by the Lords of council and ſeſſion, and by them found orderly proceeded, in manner written on the back thereof, upon the —— day of —— the ſaid year, as uſe is, containing therein a proteſtation, that the ſame ſhould be but prejudice to the ſaid Sir J. N. and his foreſaids, of their other rights of the lands, lordſhip, baronies, and others above ſpecified, appriſed as ſaid is; and that it ſhall be leiſome and lawful to the ſaid Sir J. N. and his above ſpecified, to bruik and enjoy the ſame lands, lordſhip, baronies, and others foreſaid, either by virtue of the ſaid appriſing, and infeftments following thereupon, or by virtue of their other rights and ſecurities thereof, or by both, conjunctly and ſeverally, the one but prejudice of the other, *accumulando jura juribus*, and as to him and his foreſaids ſhall ſeem expedient. *And in like manner*, the ſaid lands, lordſhip, and barony of F. comprehending the lands, baronies, teinds, and others above mentioned, were duly and lawfully reſigned by the ſaid umquhile J. C. of S. and by R. M. of K. heir-male of the ſaid deceaſed J. C. of D. and by their lawful procurators in their names, to that effect ſpecially conſtitute, and patent letters in the hands of the ſaid Lords of exchequer, of his Majeſty's kingdom aforeſaid, as in the hands of his Majeſty's immediate lawful ſuperiors thereof, and that purely and ſimply by ſtaff and baſton, as uſe is, together with all right, title, intereſt, claim of right, property and poſſeſſion, petitor and poſſeſſor, which they, their predeceſſors and ſucceſſors, had, have, or any ways may have, claim, or pretend thereto, or to any part or portion thereof, in time coming, by virtue of, and conform to the procuratory of reſignation, contained in the diſpoſition of the ſame, made by the ſaid J. C. of S. and R. M. of K. to the ſaid Sir J. N. his heirs and aſſignees therein ſpecified, dated the — day of —— 17— years, whereby it is provided and declared, that it ſhall be lawful to the ſaid Sir J. N. and his foreſaids, to bruik and enjoy the ſaid lands, lordſhip, baronies, teinds, tenements, and others *reſpectivè*, particularly and generally above diſponed, either by virtue

of the ſaid diſpoſitions and infeftments following thereupon, or by virtue of their other prior real rights and ſecurities thereof, and to aſcribe their poſſeſſions to all or either of them, either conjunctly or ſeverally, as diſtinct real rights, the one but prejudice of the other, as to them ſhall ſeem expedient, *accumulando jura juribus*, and that but any innovation or confuſion of rights, by whatſoever manner of way, as authentick inſtruments taken upon the ſaid reſignation in the hands of —— notary-publick, the ——, day of —— 17— years, in themſelves more fully is expreſſed. *And farther*, the ſaid Sir J. N. by his declaration, ſubſcribed with his hand, of the date the —— day of —— 17— years, declared, That albeit the ſaid diſpoſition granted by the ſaid E. of S. and R. M. be in favours of the ſaid Sir J. N. and heirs of tailzie therein mentioned, and that reſignation be accordingly made thereupon: Yet nevertheleſs, he thought it moſt convenient and fit to alter the ſaid tailzie, and thereby declared, that the right ſhould be taken upon the ſaid diſpoſition and reſignation to himſelf, and to the heirs-male of his body; which failing, to the heirs-female procreate, or to be procreate, or deſcending of his own body, (the eldeſt being always to be preferred, and to ſucceed without diviſion;) which failing, to ſuch perſons, one or more, which the ſaid Sir J. N. had appointed and deſigned, or ſhould appoint and deſign, or in any writ, ſubſcribed, or to be ſubſcribed by him, to be heirs of tailzie, and to ſucceed to him in the eſtate above mentioned, (failing heirs-male and female deſcending of his own body, and with and under ſuch proviſions, conditions and reſtrictions as the ſaid Sir J. N. ſhould think fit and expedient) which the perſons ſo deſigned, or to be deſigned, ſhall be holden to perform and fulfil; and which failing, (or if there be no ſuch writ extant, the time of the ſaid Sir J. N. his deceaſe, or if it ſhall happen the ſame to be revoked or altered by him, or if the perſons ſo deſigned, or to be deſigned, fail) then to the ſaid Sir J. N. and to his neareſt and lawful heirs-male whatſoever; which failing, to ſuch perſons, and for ſuch uſes as the ſaid Sir J. N. has appointed and deſigned, or ſhall appoint and deſign, by charter or writ, ſubſcribed, or to be ſubſcribed by him, with and under ſuch proviſions and conditions, as to him, any time of his own lifetime, ſhall ſeem fit and expedient, which ſhall be holden and eſteemed as valid as if in theſe preſents inſerted and engroſſed; and failing any ſuch deſignation, or, being made, and thereafter revoked or cancelled, then to the ſaid Sir J. N. his own neareſt and lawful heirs and aſſignees whatſoever, heritably, (the eldeſt heir-female always ſucceeding without diviſion) under the proviſions, conditions, declarations, reſtrictions and limitations above mentioned, and no otherways, as in the ſaid declaration more fully is expreſſed. *And moreover*, the ſaid lordſhip and barony of J. and lands and baronies of T. F. and D. principally and in warrandice, diſponed in manner above rehearſed, with the teinds, rights of patronages, and pertinents thereof, and acres above ſpecified therein contained and comprehended, pertained heritably of before to his Majeſty's truſty counſellor J. W. of G. and the ſaid two annualrents of —— and —— pertained heritably of before to Sir T. M. of G. and the ſaid annualrent of —— pertained heritably of before to P. B. of C. holden by them immediately of his Majeſty himſelf as king, and as prince and ſteward of Scotland, and were by the ſaid

J. N.

J. N. and Sir T. M. and P. B. and by A. Y. merchant burgeſs of —— appriſer of the ſaid baronies of T. and D. and R. J. *&c.* and J. W. her huſband, who had a right of wadſet upon the ſaid lands of T. and D. and by their lawful procurators, in their names, to that effect ſpecially conſtitute, and patent letters duly and lawfully reſigned, purely and ſimply, by ſtaff and baſton, as uſe is, in the hands of the ſaid Lords of his Majeſty's exchequer, having power to receive reſignations in his Majeſty's name, and thereupon to grant new infeftments as in the hands of his Majeſty, for himſelf as king, and as prince and ſteward of Scotland, at —— the — day of —— 17— years, together with all right, title, intereſt and claim of right which the ſaid J. N. and A. Y. Sir T. M. P. B. R. J. and her huſband, or any of them, their heirs and aſſignees, had, have, or any ways may claim or pretend thereto, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid Sir J. N. and his above mentioned, by his Majeſty for himſelf as king, and as prince and ſteward of Scotland, under his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, by virtue of, and conform to the procuratory of reſignation contained in the letters of alienation and diſpoſition of the ſaid lands, lordſhip and baronies of J. T. F. and D. and others aforeſaid, made by the ſaid J. N. to the ſaid Sir J. N. and his above ſpecified, dated the — day of —— 17— years, and by virtue of another procuratory contained in another diſpoſition of the ſaid annualrent of —— and —— made by the ſaid Sir T. M. to the ſaid Sir P. W. in liferent, and to his ſaid ſon and his heirs and aſſignees in fee, dated the — day of —— 17— years; and by virtue of another procuratory contained in another diſpoſition of the ſaid annualrent of —— made by the ſaid Sir T. M. and B. H. his ſpouſe, to the ſaid Sir P. W. dated the — day of —— 17— years, and by virtue of another procuratory contained in the diſpoſition of the ſaid annualrent of —— made by the ſaid P. B. of C. to the ſaid deceaſed Sir P. W. his heirs and aſſignees, dated the — day of —— 17— years, and by virtue of another procuratory contained in another diſpoſition granted by the ſaid A. Y. of the ſaid lands, and ſums for which the ſame were appriſed to the ſaid Sir P. W. his heirs and aſſignees, the — day of —— 17— years; which diſpoſitions and procuratories of reſignation therein contained, were aſſigned by the ſaid J. W. for himſelf, and as ſon and heir in general and ſpecial to the ſaid Sir P. W. in favours of the ſaid Sir J. N. and his foreſaids, conform to the diſpoſitions and aſſignations granted thereupon, dated the — day of —— 17— years; and by virtue of another procuratory of reſignation contained in the diſpoſition of the ſaid lands and baronies of T. and D. and of the ſums whereupon redeemable, granted by the ſaid R. J. and her ſaid huſband to the ſaid umquhile Sir P. W. and his foreſaids, dated the —— day of — 17— years, and aſſigned by the ſaid J. W. ſon and heir foreſaid, by the ſaid diſpoſition and aſſignation above mentioned, granted by him to the ſaid Sir J. N. and his foreſaids, dated the — day of —— 17— years, as authentick inſtruments taken upon the ſaid reſignations in the hands of —— notary-publick, dated the — day of —— in themſelves more copiouſly is comprehended: As alſo, the ſaid lands and barony of T. and D. with the teinds and pertinents thereof above rehearſed,

rehearſed, were, upon the — day of —— 17— years, duly and lawfully appriſed from the ſaid Sir W. R. at the inſtance of J. P. of W. in ſatisfaction to him of the ſum of —— of principal, and of the ſum of —— money foreſaid of ſheriff-fee correſponding thereto, *ſalvo juſto calculo* in both the ſaid ſums, as the decreet of appriſing deduced thereupon, allowed and approven the — day of —— 17— years, and aſſigned and diſponed by the ſaid J. P. to the ſaid deceaſed Sir P. W. and his foreſaids, by aſſignation and diſpoſition, dated the — day of —— 17— years, bears: *And likeways*, the ſaid lands and baronies of T. and D. were lawfully appriſed from the ſaid Sir W. R. the — day of —— 17— years, at the inſtance of A. L. —— in payment and ſatisfaction to him of the ſum of —— money foreſaid for the principal, and of —— money above written of ſheriff-fee, *ſalvo juſto calculo* in both ſums; and which appriſing was allowed the —— day of ——, thereafter; which appriſing, and the lands and baronies, and ſums of money therein contained, were aſſigned and diſponed by the ſaid A. L. to the ſaid deceaſed Sir P. W. in liferent, and to the ſaid J. W. his ſon, and to his heirs and aſſignees in fee, conform to the diſpoſition and aſſignation granted thereanent, dated the — day of —— 17— years: *And ſicklike*, the ſaid lands and baronies of T. and D. were, upon the — day of —— 17— years, duly and lawfully appriſed from the ſaid Sir W. R. at the inſtance of J. and A. B. lawful children of the deceaſed J. B. — in payment to them of the ſum of —— money foreſaid, as for the principal, with the ſum of —— money above written of ſheriff-fee, in manner ſpecified in the proceſs and decreet of appriſing led and deduced thereupon, approven and recorded the —— day of the ſaid month; which appriſing and lands, and ſums therein contained, were diſponed and aſſigned by the ſaid J. and A. B. to Sir J. S. of N. Knight, his heirs and aſſignees whatſoever, by two diſpoſitions and aſſignations, whereof one granted to the ſaid J. B. dated the — day of —— 17— years, and the other granted by the ſaid A. B. dated the — day of —— 17— years; and which whole appriſings and lands, and ſums therein contained, were aſſigned and transferred by the ſaid Sir J. S. to the ſaid umquhile Sir P. W. by diſpoſition, dated the — day of —— 17— years. *And in like manner*, the ſaid lands and baronies of T. and D. were, upon the — day of —— 17— years, duly and lawfully appriſed from the ſaid Sir W. R. at the inſtance of W. S. —— in payment to him of the ſum of —— money foreſaid, as for the principal, and of the ſum of —— of ſheriff-fee effeiring thereto, as in the decreet and proceſs of appriſing led and deduced thereupon, approven and recorded the —— day of —— thereafter, in itſelf more fully is contained; which appriſing, and lands and ſums therein ſpecified, were diſponed and aſſigned by the ſaid W. S. to umquhile M. T. H. his heirs and aſſignees whatſoever, by diſpoſition and aſſignation granted by him, and others having intereſt therein, the — and — days of —— 17— years; and the ſaid decreet and proceſs of appriſing, and lands and ſums of money therein contained, were diſponed and transferred by the ſaid M. T. H. to the ſaid Sir P. W. and his foreſaids, conform to the diſpoſition granted thereanent, dated the — day of —— 17— years. *And farther*, the ſaid lands and baronies of T. and D. were, upon the —— day of —— appriſed from the ſaid Sir W. R. at the inſtance

inſtance of A. G. — for the ſum of —— money foreſaid, as for the principal, and of the ſum of —— money above written of ſheriff-fee correſponding thereto, and the ſaid appriſing ſeen and allowed by the ſaid Lords of council and ſeſſion, the — day of —— thereafter, and diſponed by the ſaid A. G. to the ſaid umquhile Sir P. W. in liferent, and to the ſaid J. W. his eldeſt ſon, and his foreſaids in fee, conform to the diſpoſition and aſſignation granted thereanent, dated the — day of —— 17— years: *Moreover*, the ſaid lands and baronies of T. and D. were, upon the — day of —— 17— years, duly and lawfully appriſed from the ſaid Sir W. R. at the inſtance of J. S. of —— for the ſum of —— money foreſaid, as for the principal, and of the ſum of —— money above written of ſheriff-fee, and the ſaid appriſing allowed the —— day of —— thereafter, and by the ſaid J. S. diſponed to the ſaid umquhile Sir P. W. and his foreſaids, conform to the right granted thereanent, dated the — day of —— 17— years. *As alſo*, the ſaid J. W. now of G. for himſelf, and as heir ſerved and retoured to the ſaid deceaſed Sir P. W. his father, by his letters of diſpoſition and tranſlation, dated the — day of —— 17— years, ſold and diſponed to the ſaid Sir J. N. and his foreſaids, the ſaid lands and baronies of T. and D. with the pertinents, principally and in warrandice in manner foreſaid, under the proviſions, conditions, declarations, reſtrictions and limitations above mentioned, and no otherways: *And likeways* ſold, aſſigned, transferred, and diſponed to the ſaid Sir J. N. and his foreſaids, the proceſs and decreets of appriſing above ſpecified, allowance thereof above written, ſums of money, principals, and ſheriff-fees therein contained, and three annualrents above rehearſed, which pertained to the ſaid Sir T. M. and P. B. with the whole diſpoſitions, aſſignations, and whole other rights of the premiſſes made to him and his ſaid deceaſed father, and to their cedents and authors, as in the ſaid letters of diſpoſition and aſſignation more fully is comprehended: *Reſerving* always to D. J. M. ſpouſe to the ſaid Sir J. N. the proviſions of ſuch parts and portions of the ſaid lands, lordſhip, and barony of F. as are granted, or to be granted to her by her ſaid huſband, conform to the tenors thereof, which his Majeſty, for himſelf and his ſucceſſors, ratifies and confirms, by theſe preſents. *And in like manner*, his Majeſty, for himſelf as king, and as prince and ſteward of Scotland, Duke of Rothſay, Earl of Kyle, Carrick and Cunningham, Lord of the Iſles, and Baron of the barony of Renfrew, has ratified, approven and confirmed, likeas his Majeſty, by theſe preſents, with conſent foreſaid, ratifies, confirms, and approves the obligement granted by the ſaid Sir W. R. and D. E. S. his ſpouſe, and both of them, with one conſent and aſſent, and likeways with conſent of divers other perſons therein named, whereby the ſaid Sir W. R. with conſent foreſaid, was bound and obliged to infeft and ſeiſe the ſaid Sir P. W. in liferent, and the ſaid J. W. his eldeſt ſon, and his heirs and aſſignees therein ſpecified, in fee, *in all and haill* the ſaid lands and barony of D. with the towers, fortalices, *(here all the lands, ſalt-pans, coals, coal-heughs, annualrents, provoſtry, prebendary, and others, lying naturally and locally within the bounds of the ſaid barony of D. or betwixt them, or lying contiguous*

tiguous thereto, and with all other lands, of whatſoever other name, holding, or deſignation they be of, lying betwixt the ſaid lands and barony of D. together with the privilege of commonty and common paſturage, &c. *as in the diſpoſitive clauſe of the ſignature are particularly inſerted, and then follows)* in real warrandice and ſecurity to the ſaid Sir P. W. and his ſaid ſon, and his foreſaids, of the ſaid lands of T. and others above expreſſed, for warranting of them, and of the ſaid lands and others above written, from troubles and grounds of eviction, and others at length mentioned in the ſaid obligement, and during the ſpace therein expreſſed, to be holden of the ſaid Sir W. R. his heirs and ſucceſſors, or from them, of their immediate ſuperiors, in manner mentioned in the ſaid obligement, which is of the date the — day of —— 17— years; as alſo the diſpoſition granted by the ſaid M. T. H. to the ſaid S. T. M. of the ſaid two annualrents, dated the — day of —— 17— years, with the precept of ſaſine therein inſert, and inſtrument of ſaſine following thereupon, and likeways the heritable obligation, dated the — day of —— 17— years, granted by the ſaid Sir W. R. to the ſaid P. B. containing the principal ſum of —— merks Scots money, and obligement to infeft in an annualrent correſponding thereto, precept of ſeiſin therein contained, and inſtrument of ſeiſin following thereupon, in all and ſundry heads, articles, and clauſes therein ſpecified, according to the forms and tenors thereof, in all points; reſerving always to his Majeſty, and to his Majeſty's ſucceſſors, kings, princes and ſtewards of Scotland, in time coming, the duties after mentioned, of the ſaid lands and baronies of D. and T. payable to them, conform to the tenor of theſe preſents allenarly: And farther, his Majeſty wills and grants, and for his Majeſty and ſucceſſors, kings, princes and ſtewards of Scotland, decerns and ordains, that this preſent confirmation of the ſaid obligations and diſpoſitions, precepts of ſeiſin therein inſert, and inſtruments of ſeiſin following thereupon, is and ſhall be as valid, effectual and ſufficient, as if the ſame were at length, and *de verbo in verbum* herein inſert, and as if the ſaid confirmation were granted before taking of the ſaid ſeiſins, notwithſtanding of the taking thereof, deceaſe of the ſaid M. T. H. and not inſerting thereof, and of the obligations and diſpoſitions above ſpecified in this preſent confirmation; whereanent, and all other defects and imperfections which may be objected againſt the validity of the ſaid obligations and diſpoſitions, and ſeiſin above ſpecified, with this preſent confirmation thereof, his Majeſty, with advice and conſent foreſaid, for him and his ſucceſſors, kings, princes and ſtewards of Scotland, has diſpenſed, and by theſe preſents, diſpenſes for ever: Moreover, his Majeſty, for himſelf as king, and as prince and ſteward of Scotland, for good and faithful ſervices done and performed by the ſaid Sir J. N. and his predeceſſors, to his Majeſty, and his Majeſty's predeceſſors, kings, princes and ſtewards of Scotland, in time paſt, and for divers other good cauſes and conſiderations moving his Majeſty, of his Majeſty's certain knowledge, proper motive, and plenitude of his power, has of new given, granted and diſponed, and for his Majeſty and ſucceſſors, kings, princes and ſtewards of Scotland, perpetually confirmed, and by theſe preſents, with advice and conſent foreſaid, of new gives, grants and diſpones, and for his Majeſty and his ſucceſſors, kings, princes and ſtewards of Scotland, perpetually confirms to the ſaid Sir J. N. and to the heirs-male of his body,

body, which failing, to the heirs-female, procreate or to be procreate, or deſcending of his own body, the eldeſt always to be preferred, and without diviſion, to ſucceed, which failing, to ſuch perſons, one or more, which the ſaid Sir J. N. has appointed and deſigned, or ſhall appoint, deſign, or ſubſcribe, in any writ by him ſubſcribed, or to be ſubſcribed, to be heirs of tailzie, and to ſucceed to him in the eſtate above mentioned, failing heirs-male and female deſcending of his own body, and with and under ſuch proviſions, conditions and reſtrictions, as to the ſaid Sir J. N. ſhall ſeem expedient, which the perſon ſo deſigned, or to be deſigned, ſhall be holden to fulfil and perform; and the ſaid writ ſhall be as ſufficient, as if the ſame were inſert and ingroſſed herein; and if no ſuch writ remain, or be extant the time of the ſaid Sir J. N. his deceaſe, or if it ſhall happen to be revoked or altered by himſelf, or if the perſons ſo deſigned, or to be deſigned, fail, then to the neareſt and lawful heirs-male whatſoever of the ſaid Sir J. N. which failing, to ſuch perſons, and for ſuch uſes as the ſaid Sir J. N. has appointed and deſigned, or ſhall appoint and deſign, by charter or writ, ſubſcribed or to be ſubſcribed by him, and with and under ſuch proviſions and conditions, which he ſhall think fit, and to him ſhall ſeem expedient, at any time during his lifetime, and which ſhall be holden and eſteemed as valid and firm, as if inſert and ingroſſed herein; and failing ſuch deſignation, or being made, and thereafter revoked or cancelled, then to the neareſt and lawful heirs and aſſignees whatſoever of the ſaid Sir J. N. heritably, the eldeſt heir-female ſtill ſucceeding without diviſion, under the proviſions, conditions, declarations, reſtrictions and limitations above mentioned, and no otherways; as alſo with the proviſion and reverſion after ſpecified, introduced and conceived in favours of the ſaid Sir J. N. all and haill (*here, in the* de novo damus, *are the lands, lordſhip, baronies, teinds, patronages, tenements, annualrents, and what elſe in the diſpoſitive clauſe of the ſignature, both principal and warrandice, inſert, and then follows*) together with all right, title, intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which his Majeſty, his predeceſſors or ſucceſſors, kings, princes, or ſtewards of Scotland, had, have, or any ways may have or claim to the ſaid lands, lordſhips, baronies, and others above expreſſed, or to the mails, farms, profits and duties thereof, of whatſoever years or terms bygone or to come, by reaſon of ward, marriages, relief, nonentry, eſcheat, forfeiture, diſclamation, purpreſture, baſtardy, as laſt heir, recognition, want of confirmation, amitting and tyning of the old evidents, or not production of the ſame, or new in due time, acts of annexation, revocations general or ſpecial, diminution of the rental, or of any other law or title whatſoever, or by virtue of whatſoever acts of parliament, or other acts, laws, ſtatutes, or conſtitutions of the ſaid kingdom of Scotland, made, or to be made in the contrary, or for whatſoever cauſes, crimes, or occaſions bygone, preceding the day and date hereof, renouncing, transferring and overgiving the ſame, *cum omni actione et inſtantia earundem jure, lite et cauſa*, from his Majeſty, and his ſucceſſors, kings, princes and ſtewards of Scotland, to and in favours of the ſaid Sir J. N. and his foreſaids, now and in all time coming, *cum pacto de non petendo*, and with ſupplement of all other faults, defects, nullities and imperfections, as well not named as named, which his Majeſty, for himſelf, and his Ma-

jeſty's ſucceſſors, kings, princes and ſtewards of Scotland, will have as for expreſſed in theſe preſents, and charter foreſaid; providing, nevertheleſs, that it ſhall be in the power of the ſaid Sir J. N. at any time in his own lifetime, *vel in ipſo articulo mortis*, by himſelf alone, without conſent of any of the heirs of tailzie above mentioned, or who are named, or ſhall be named, to ſell, annalzie, gift or diſpone the whole lands, baronies, teinds, patronages, mills, and others above mentioned, or any part thereof, or any annualrents, one or more, to be uplifted forth of the ſame, in favours of any perſon or perſons, or to any uſe to him ſhall ſeem expedient, and to grant all writs neceſſary thereanent, which his heirs-male of tailzie and proviſion, and his other heirs whatſoever, ſhall be obliged to perform and fulfil; and alſo, his Majeſty, with advice and conſent foreſaid, for himſelf as king, and as prince and ſteward of Scotland, for the cauſes above recited, and divers other good cauſes and conſiderations moving his Majeſty thereto, of his Majeſty's certain knowledge, proper motive, and plenitude of his power, diſſolves the lands, lordſhips, baronies, burghs of barony, tenants, tenandries, patronages, teinds, and others above ſpecified, and principally, and in warrandice, diſponed, as ſaid is, from all baronies and lordſhips, to which they were formerly annexed, or in which, by the infeftments above mentioned, they were united, or whereof they were proper parts and pertinents, and have united, erected, created and incorporated, and by theſe preſents, unites, erects, creates and incorporates, all and ſundry the foreſaid lands, lordſhips, baronies of F. and C. and lands and others above written, as well principal as in warrandice, the ſaid lands, lordſhip and barony of J. the ſaid lands and barony of T. F. and D. all lying, deſigned, and comprehending in manner foreſaid, and diſponed to the ſaid Sir J. N. and his foreſaids, principally and in warrandice, as above expreſſed, in a haill and free lordſhip and barony, to be called now and in all time coming, the lordſhip and barony of D. and his Majeſty wills and grants, and for his Majeſty and his royal ſucceſſors, kings, princes and ſtewards of Scotland, decerns and ordains, that a ſeiſin now to be taken by the ſaid Sir J. N. and by his foreſaids, in all time coming, at the old and ancient caſtle of D. by deliverance of earth and ſtone of the ground allenarly, ſhall ſtand and be a ſufficient ſeiſin to them, for all and ſundry the lands, lordſhips, barony, burghs of barony, tenandries, patronages, teinds, heritable offices, and others particularly and generally above rehearſed, as well principal as in warrandice, diſponed, as ſaid is, and for each part and portion thereof, without any other ſpecial or particular ſeiſin to be taken by him or them, at any other part or place thereof, notwithſtanding they ly not contiguous and together, but in divers ſheriffdoms and juriſdictions; anent which ſeiſins, and all that may follow thereupon, his Majeſty, for himſelf as king, and as prince and ſteward of Scotland, with advice and conſent foreſaid, has diſpenſed, and by theſe preſents, diſpenſes for ever, to be holden, and for to hold, all and ſundry the ſaid lands, lordſhips, baronies, burghs of barony, weekly markets, yearly fairs, with all tolls, cuſtoms, privileges and liberties of the ſaid burghs of barony, weekly markets, and yearly fairs, patronages, tithes, and others particularly and generally above mentioned, with the caſtles, towers, fortalices, manor-places, tenants, tenandries, ſervices of free tenants thereof, links, cunningaries, and

whole

whole remanent pertinents of the ſame, all lying, as ſaid is, principally and in warrandice, as is above ſpecified, and all formerly united in the ſaid free lordſhip and barony, called the lordſhip and barony of F. according to the charter above written, dated the twenty-ninth day of February 1664, to the ſaid Sir J. N. and his foreſaids, of his Majeſty, for himſelf as king, and his royal ſucceſſors; and ſicklike, to be holden, and for to hold, all and haill the ſaid lands and barony of J. with towers, fortalices, manor-places, houſes, biggings, yards, orchards, towns, lands, mills, mill-lands, multures, ports, anchorages, annexes, connexes, tenants, tenandries, ſervices of free tenants, parts, pendicles, privileges and pertinents thereof whatſoever, lying in manner foreſaid, together with the ſaid privileges and paſturages in the ſaid muirs adjacent thereto, offices of bailliary, and other immunities and caſualties whatſoever of the ſaid lands particularly and generally above written, formerly united, erected, created and incorporated in a burgh of barony, free barony and ſea-port, in manner foreſaid, conform to the charter above ſpecified, granted to the ſaid Sir P. W. the thirteenth January 1671, to the ſaid Sir J. N. and his above written, of his Majeſty, as prince and ſteward of Scotland, and his ſucceſſors, princes and ſtewards thereof; and, in like manner, to be holden, and for to hold, all and ſundry the ſaid tithes, parſonages and vicarages of the ſaid pariſh-kirk, and pariſh of J. excepting as is above excepted, together with the ſaid advocation, donation and right of patronage of the ſaid pariſh-kirk, and all and haill the ſaid two temple lands, with the manſions, houſes, biggings, yards, annexes, connexes, parts, pendicles, privileges and paſturages thereof above expreſſed, office of bailliary, liberties, immunities and caſualties of the ſame lands and office; particularly and generally above mentioned, to the ſaid Sir J. N. and his foreſaids, of his Majeſty and his royal ſucceſſors, kings of Scotland, and likeways to be holden, and for to hold, all and haill the ſaid lands and barony of T. excepting as is above excepted, all lying as ſaid is, and annualrents above mentioned, upliftable forth thereof, to the ſaid Sir J. N. and his foreſaids, of his Majeſty, as prince and ſteward of Scotland, as alſo to be holden, and for to hold the ſaid lands and barony of F. comprehending the particular lands, mills, woods, fiſhings, foreſts, tenant, tenandries, ſervices of free tenants thereof above mentioned, lying in the ſaid pariſh of F. and ſheriffdom of F. together with the advocation, donation and right of patronage of the ſaid church of F. teinds, parſonage and vicarage of the ſame, to the ſaid Sir J. N. and his above mentioned, of his Majeſty, for himſelf as king, and his royal ſucceſſors, and in like manner, to be holden, and for to hold the ſaid lands and barony of D. with the towers, fortalices, mills, multures, dovecotes, cunningaries, tenants, tenandries, ſervices of free tenants, coves, ſalt pans, coals, coal-heughs, lime and ſtone, parts, pendicles and pertinents thereof whatſoever, lying in manner foreſaid, and the ſaid lands of Thr. *&c.* and other lands, tenements, annualrents, tithes, fruits, rents, emoluments, and duties above ſpecified, pertaining and belonging to the ſaid college-kirk of D. provoſtry and prebendaries thereof, and the ſaid other lands, privileges and paſturages diſponed in warrandice of the ſaid barony of T. as ſaid is, to the ſaid Sir J. N. and his above ſpecified, of his Majeſty, and all in fee, heritage, free lordſhip, free barony, and free

burghs of barony for ever, by all rights, meiths and marches of the ſame, old and divided, as they ly in length and breadth, in houſes, biggings, *&c.* mills, multures, *&c.* hawking, hunting, fiſhings, *&c.* with court-plaints, herezalds, bloodwits, *&c.* outfang-thief, infang-thief, pit, ſtocks and gallows, *&c.* with common paſturage, free iſh and entry, and with all and ſundry other liberties, commodities, profits, *&c.* freely, quietly, *&c.* but revocation; giving yearly, the ſaid Sir J. N. and his foreſaids, to his Majeſty and ſucceſſors, kings of Scotland, the blench-duties and feu-duties *reſpectivè* underwritten, *viz.* for the ſaid old or ancient lordſhip and barony of D. containing and comprehending the particular lands, baronies, and others above mentioned, which were formerly divided in three parts, as above mentioned, and now are devolved and eſtabliſhed in the perſon of the ſaid Sir J. N. for the ſaid lands of O. *alias* F. with theirs above mentioned, for the ſaid annualrent of —— yearly, upliftable forth of the ſaid lands of O. for the ſaid lands of C. *alias* Q. with the pertinents, and for the ſaid other lands and others above ſpecified, excepting the lands above and underwritten, a red roſe at the feaſt of John the Baptiſt, at the tower, fortalice and manor-place of F. above ſpecified, in name of blench-farm, if it be aſked allenarly, for the ſaid lands and tenandry of N. comprehending the lands, tenements, acres, churches, tithes, and others above expreſſed, the ſum of 26 l. 8 s. money of Scotland, as a part of the blench-farm duty, contained in the infeftment of erection granted to umquhile J. E. of M. of the abbacy of D. erected in the barony of C. at the feaſt of Whitſunday, in name of blench-farm, and likeways paying to the miniſters ſerving the cure at the church of G. now called D. from time to time, for their certain and conſtant ſtipend, one chalder of wheat, two chalders of oats, one chalder of bear, and one hundred merks of money, with the manſion and glebe of the vicar at the ſaid church, at the terms uſed and wont, and relieving the ſaid miniſters ſerving the cure at D. of the ſaid kirk, and the heirs and ſucceſſors of the ſaid E. of M. of all taxations and impoſitions whatſoever, to be impoſed upon the tithes, fruits and rents of the ſaid pariſh of C. now called of D. or for reparation of the kirk thereof, for the ſaid lands called Friarland of D. extending as ſaid is, with the tenement and yard adjacent thereto, and their pertinents, the ſum of 20 l. 3 s. 4 d. money foreſaid, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty, and the heirs aforeſaid of the ſaid Sir J. N. doubling the ſaid feu-duty the firſt year of their entry to the ſaid lands, as uſe is, of feu-farm allenarly; and his Majeſty, for himſelf and ſucceſſors, kings of Scotland, with conſent foreſaid, decerns and ordains, that the not payment of the ſaid feu-duty, by the ſpace of two or more years, ſhall be no cauſe or ground of reduction, or annulling of the ſaid feu-infeftment of the ſaid lands of Friarlands, with the pertinents, notwithſtanding of the act of parliament made in the month of December 1597, or of whatſoever acts, laws, ſtatutes, or conſtitutions made or to be made in the contrary; whereanent, his Majeſty, for himſelf and his ſucceſſors, with conſent foreſaid, diſpenſes for ever, but prejudice nevertheleſs to his Majeſty and ſucceſſors, and their officers, to poind and diſtrenzie for the ſaid feu-duties, yearly and termly, as accords, for the ſaid burgh of barony of D. weekly markets and yearly fairs thereof, with

all

all liberties, privileges, immunities and caſualties pertaining and belonging thereto, one penny Scots money, at the ſaid tower, fortalice and manor-place of F. yearly, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, for the ſaid barony of C. comprehending the lands and others above expreſſed, diſponed in warrandice, as ſaid is, after eviction of the lands and others above written, in warrandice whereof they are diſponed, one ſilver penny money of Scotland, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, for the ſaid advocation, donation and right of patronage of the ſaid kirk of D. rectory and vicary, or parſonage and vicarage thereof, with all and ſundry teinds, fruits, rents, emoluments and duties appertaining thereto, one penny money above ſpecified, at the feaſt of Whitſunday, upon the ground of any part of the ſaid lands and barony of F. in name of blench farm, if it be aſked allenarly, for the ſaid tenement of land, with the yard and pertinents thereof, upon the north ſide of the town of D. at the eaſt end of the town green thereof, bounded as ſaid is, and for the ſaid eight acres of land called —— *&c.* the ſum of eight ſhillings money foreſaid, at the ſaid two terms of the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty, for the ſaid two acres of arable land, lying and bounded as above expreſſed, the ſum of ten pence money above written, at two terms of the year, Whitſunday and Martinmas in winter, by equal portions, together with all ſervices, preſtations and cuſtoms uſed and wont, to the ſuperiors thereof, in name of feu-farm allenarly, and for the ſaid teinds, great and ſmall, parſonages and vicarages of the ſaid lands now commonly called F. and which of old were called Eaſter S. with parts, pendicles and pertinents thereof, one penny money foreſaid upon the ground thereof, at the feaſt of Whitſunday, in name of blench-farm, if it be required allenarly, for all and haill the ſaid lands and barony of J. with the towers, *&c.* towns, lands, mains, mill, mill-lands, multures, ports, anchorages, annexes, connexes, tenants, tenandries, ſervices of free tenants, parts, pendicles, privileges and pertinents of the ſame whatſoever, lying as ſaid is, together with the ſaid privileges and paſturages of the ſaid muirs adjacent thereto, and for the ſaid office of bailliary of the ſaid lands and barony of J. and other liberties, immunities and caſualties of the ſaid lands whatſoever, particularly and generally above written, formerly united, erected and created in the ſaid burgh of barony, free barony and ſea-port, in manner foreſaid, conform to the charter above ſpecified, granted to the ſaid Sir P. W. 13th January 1671. And ſicklike, for the ſaid lands and barony of T. and others particularly and generally above mentioned, united and erected in the barony thereof, in manner foreſaid, conform to the charter above written, granted to the ſaid umquhile Sir P. W. dated the 11th of July 1670, excepting as above excepted, to his Majeſty and his Majeſty's ſucceſſors, princes and ſtewards of Scotland, the ſum of eight pounds money of the ſaid realm of Scotland, and that at the feaſt of Whitſunday yearly, upon the ground of the ſaid lands, in name of blench-farm, if it be aſked allenarly: Notwithſtanding that the ſaid lands and baronies of J. and T. containing and comprehending, as ſaid is, were formerly holden by the authors and predeceſſors of the ſaid Sir J. N. in taxt-ward, for payment of the taxt value, or duty of the ward, relief, nonentry and marriage

mentioned

mentioned in the charters and infeftments granted to the ſaid deceaſed Sir. P. W. and his ſon, of the ſame, in reſpect his Majeſty for himſelf, as king, and as prince and ſteward of Scotland, Duke of Rothſey and Albany, Earl of Kyle, Carrick, and Cunningham, Lord of the Iſles, and Baron of the barony of Renfrew, with advice and conſent foreſaid, of his Majeſty's certain knowledge, proper motive, and kingly power, and of his Majeſty's royal bounty and munificence, for the fidelity, integrity, and affection of the ſaid Sir J. N. to his Majeſty, and to his deareſt father, and to his Majeſty's ſervice and intereſt, expreſſed and evidenced by the ſaid Sir J. N. with great conſtancy and ſincerity, in times of great difficulty and peril; and alſo, in reſpect when his Majeſty's moſt ſerene and deareſt brother Charles II. of moſt renowned memory, called him from a ſtation of great emolument, benefice and action, to be his Majeſty's advocate, and one of his ſecret council, and one of the ſenators of the college of juſtice, and one of the commiſſioners of his Majeſty's exchequer, and for him a full and comfortable ſpokeſman, and for ſome years ſerved his ſaid Majeſty's brother in the ſaid offices, with reputation and fidelity, to the great ſatisfaction as well of his Majeſty's brother, as of his Majeſty's ſubjects, until old age obliged him to give place, and give over, and demit theſe offices: And, upon the conſiderations above mentioned, to eſtabliſh a teſt and mark of his Majeſty's grace and favour upon him, and in like manner, in reſpect that his Majeſty's brother Charles II. of bleſſed memory, by ſignature under his royal hand, dated at Windſor Caſtle, the 19th day of June 1684, granted warrant for expeding a charter under his Majeſty's great ſeal of the ſaid kingdom, of the tenor of theſe preſents, and containing a change of the holding of the lands, baronies, and others above mentioned, from taxt-ward to blench-farm, in manner above written; therefore, Our ſaid Sovereign Lord has altered and changed, and by theſe preſents, for his Majeſty himſelf, as king, and as prince and ſteward of Scotland, for his Majeſty and his ſucceſſors, kings, princes, and ſtewards of Scotland, alters and changes the ſaid firſt and former manner of holding of the lands, baronies, and others above rehearſed, from taxt-ward to a blench-farm duty, now and in all time coming, to be holden of his Majeſty, and his Majeſty's ſucceſſors, kings, princes and ſtewards of Scotland, in free blench-farm, for payment of the blench-duty above mentioned, as ſaid is, allenarly; and for the ſaid annualrents of —— and —— and for the ſaid annualrent of —— and for the ſaid other annualrent of —— the ſum of three pennies money of Scotland yearly, upon the ground of any part of the ſaid lands and barony of T. at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, and for the ſaid teind-ſheaves, and parſonages and vicarages of the ſaid pariſh church and pariſh of J. with the advocation, donation, and right of patronage thereof, one penny uſual money of Scotland, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly; and likeways paying to the miniſter ſerving the cure of the ſaid church, and his ſucceſſors, the yearly modified ſtipend, and relieving the Earl of S. of the elements for celebration of the ſacrament, and maintaining a cell at the ſaid kirk, and of all taxations and impoſitions impoſed, or to be impoſed, and of the ſtipend of the miniſter ſerving the cure at the ſaid church, but prejudice to the ſaid Sir J. N. of the relief, for warrandice competent

againſt

againſt the ſaid J. W. by virtue of the obligement contained in the diſpoſition above mentioned, by which he is obliged to warrant the ſaid teinds of all future augmentations, miniſters and ſchoolmaſters ſtipends, and from all annuities of teinds payable to his Majeſty, or his Majeſty's donatars, and of all contribution money payable to the Lords of council and ſeſſion, out of the teinds of abbacies, and proportional part of the other duties payable to his Majeſty for the ſaid teinds, and of the *reddendo* contained in the proper infeftment of the ſaid J. W. or in the infeftment of the Earl of S. or in the infeftments granted to the ſaid umquhile Earl of D. or to Sir A. H. by which they are obliged to relieve the Earl of A. and his ſucceſſors in the right of the lordſhip of P. in the particulars above mentioned, and from all other impoſitions and burdens, and all evictions of the ſaid teinds, or any part thereof, which thereafter might fall out, by whatſoever law or ſtatute made or to be made, albeit in time coming, excepting allenarly the particulars ſpecially mentioned in the ſaid diſpoſition; and for the ſaid two temple lands, with the privileges and pertinents, and office of bailliary thereof above rehearſed, the ſum of three ſhillings and four pennies, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty allenarly, and that for relief of the Lord T. of ſo much of the feu-farm duty, due to his Majeſty and his Majeſty's ſucceſſors, out of the lordſhip of T. of which lordſhip the ſaid temple lands are proper parts, if the ſaid Lord T. ſhall not pay the haill feu-farm duties of the ſaid lordſhip; providing always, that ſo long as the ſaid Lord T. and his ſucceſſors, make payment of the feu-farm duty of the ſaid lordſhip, and ſo relieve the ſaid Sir J. N. and his foreſaids thereof, they ſhall not be bound or obliged in payment of the ſaid feu-farm duty: And farther, the heirs and ſucceſſors of the ſaid Sir J. N. doubling the ſaid feu-farm duty the firſt year of their entry to the ſaid temple lands, as uſe is, of feu-farm, and for the ſaid lands and barony of F. comprehending and diſponed in warrandice of J. in manner foreſaid, and for the advocation, donation, and right of patronage of the church thereof, after eviction of the lands, barony and others foreſaid, principally diſponed, the ſum of three pennies money above written yearly, at the feaſt of Whitſunday, in name of blench-farm, if required allenarly; and for the ſaid lands and barony of D. privileges and pertinents thereof above ſpecified, diſponed in warrandice of the ſaid barony of T. in manner above written, after eviction of the lands, barony and others principally diſponed, one ſilver penny at the town of D. at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and that for all other burden, exaction, *&c.* And laſtly, his Majeſty faithfully promiſes, *in verbo principis*, to obtain the ſaid charter, with the precept of ſeiſin therein contained, and inſtrument of ſeiſin to follow thereupon, in his Majeſty's firſt parliament within his Majeſty's kingdom of Scotland, to be ratified by his Majeſty, with conſent of the eſtates thereof; and ordains the ſaid charter, with his Majeſty's declaration of his will and pleaſure therein contained, to be a ſufficient warrant for that effect; and that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at his Majeſty's court at Whitehall, the firſt day of May 1685, and of the reign the firſt year.

Two

Two things in this I cannot pass: 1. That as this person was a gentleman by extract, so, by his education and virtues, from no great patrimony, he made a great figure and rise in the world. He was the king's advocate, one of the senators of the college of justice, one of the Lords of his Majesty's privy council and exchequer, a great justiciary, and could not be biassed, charitable at will, and generally good and religious, and left an opulent fortune behind. The second thing I observe is, that parents are not only happy, wise, and religious, in educating their children, albeit with the less patrimony, because by education, attended with loyalty, men become useful in church and state, and in process of time, made capable of the highest dignity, civil or military, that any, of a subject, can rationally propose; and therefore, let all parents imitate this gentleman's parents, in the education of their children, both for conscience sake, out of a religious sense, and likeways through the natural obligation and tye that lies upon them, and not without hope, but their children, tracing this gentleman's vestiges, may live a comfortable life, if not attain, in less or more, to the effects of his, or like virtues, achievements, and pre-eminencies. And the honour and respect I had for this most worthy gentleman, and the kindness he had for me, for many years, albeit not his writer, obliged me to this piece of gratitude, not but his own works do far transcend all I can say or write of him.

SIGNATURE *in favours of* M. *Countess of* R. *in Liferent, and of* J. *Lord* L. *her eldest Son, in Fee, and Heirs-Male of his Body; which failing, of the other Heirs-Male and of Tailzie after specified; and contains many Reservations, Provisions, Conditions, Restrictions, Limitations, and a Faculty and Power to burden the Estate with a competent Sum for the Lady's honourable Affairs; it contains new Erections, Burgh of Barony, weekly Markets, yearly Fairs, Patronages, heritable Office of Sheriffship, all Manner of Holdings, and distinct* Reddendos, *and several good and choice Clauses, but all tending to the Standing and Perpetuity of the Family and Estate, in the Name of* L. *and Continuance of the Arms and Cognisance thereof: And, withal, should these Heirs, or their Husbands, not assume the Surname and Arms, or afterwards change; as they amit and lose the Benefit of the Succession, and devolve upon the next; so there is a Caution against that Irritancy, should they succeed to another Estate of another Name, and what in that Case to be done.*

OUR SOVEREIGN LORD, with the special advice and consent of *(here all the consents were inserted, according to the constitution of the exchequer, by Lords of the treasury, and other Lords of exchequer, and then follows)* ordains a charter to be made and passed under his Majesty's great seal of the said kingdom, in due and competent form, giving, granting, and disponing, and for his Majesty and his royal successors perpetually confirming, likeas his Majesty, with consent foresaid, by these presents, gives, grants, and disponeth, and for his Majesty and his successors aforesaid, perpetually confirms, to his Majesty's most beloved cousin, M. C. of R. and H. *&c.* in liferent, during all the days of her lifetime, and to J. Lord L. her eldest lawful son, procreate betwixt her and the deceased C. E. of H. her husband, and to the heirs-male, or eldest heir-female to be procreate of his body; which failing, to the other heirs-male lawfully procreate betwixt the said umquhile C. E. of H. and M. C. of R. and to the

the heirs-male or eldeſt heir-female lawfully to be procreate of their bodies; which failing, to the other heirs-male lawfully to be procreate of the ſaid C. of R. her body of any other marriage, and to the heirs-male, or eldeſt heir-female of their bodies; which failing, to the eldeſt lawful daughter, or heir-female to be lawfully procreate of the ſaid C. her body, and to the heirs-male, or eldeſt heir-female lawfully to be procreate of their bodies; which failing, to C. M. of M. ſiſter-german of the ſaid C. of R. and to the heirs-male, or eldeſt heir-female lawfully procreate, or to be procreate of her body, (the immediate eldeſt heir-female and her heirs failing in all theſe caſes, and without diviſion, ſtill ſucceeding *ſucceſſivè;*) which failing, to M. F. M. brother-german to the Earl of E. and to the heirs-male lawfully procreate, or to be procreate of his body; which failing, to J. L. of N. and to the heirs-male lawfully procreate, or to be procreate of his body; which failing, to the ſaid M. C. of R. her neareſt and lawful heirs-male whatſoever; which all failing, to her other heirs and aſſignees whatſoever, heritably, (the eldeſt lawful daughter or heir-female *ſucceſſivè* ſtill ſucceeding without diviſion, and with and under the haill reſervations, burdens, conditions, proviſions, reſtrictions, limitations, and qualifications *reſpectivè* after mentioned) all and haill the honour, title and dignity of R. and all and ſundry the earldom, lands, lordſhip, baronies, teinds, and others particularly and generally under written, *viz.* All and haill the lands and barony of B. *(here many lands, baronies, fiſhings, ferry, and ferry-boats, patronages of kirks, chaplainries, and prebendaries, and others, lying within ſeveral ſheriffdoms, north and ſouth, and within the ſtewartry of F. are inſerted, and then follows)* all united, annexed, and incorporated in a haill and free barony, called the barony of B. *and then there follows*, many other lands, fiſhings, iſles, with the teinds of the ſaid iſles and fiſhings included, as never to be ſeparated from the ſtock, baronies comprehending divers lands, with four yearly free fairs, each of them to continue for two days, and the office of ſheriffſhip of the ſheriffdom of F. within the haill bounds thereof, with all and ſundry fees, ſalaries, profits, emoluments and duties of the ſaid office, faculties, privileges, and righteous pertinents whatſoever belonging to the ſaid office, with ſpecial and full power to appoint, begin, affirm, hold, and, how oft need beis, to continue the courts of the ſheriffdom of F. within the haill bounds, limits, and marches thereof, upon all ſubjects, as well within the ſtewartry of F. as within the bounds of the ſheriffdom thereof, as well abiding as inhabitants for ſerving of brieves to a terce of diviſion, cognition of land, by caption, appriſing of lands, and deciſion of all other actions; together alſo with full power to the ſaid C. of R. and to J. Lord L. and their foreſaids, by themſelves and their deputes, to ſearch, ſeek, and apprehend all and ſundry vagabonds, ſorners, and other idle and randy beggars, and all thieves, and art and part of theft reſiding within the ſaid ſheriffdom, and the ſaid perſons apprehended, to put them to the knowledge and cognition of an aſſize, and to adminiſtrate juſtice upon them, conform to laws of the ſaid kingdom of Scotland, and to uplift the eſcheats of the perſons condemned, falling how oft they occur, and to apply the half thereof for the uſe of the ſaid C. of R. and of J. Lord L. and their foreſaids; with

power in like manner to them and their foreſaids, to create and ſubſtitute deputes, clerks, ſerjeants, dempſters, and all other officers and members of court neceſſary (for whom they ſhall be holden to anſwer) and generally to do all other things, which are particularly and generally mentioned in the charter under the great ſeal, granted by his Majeſty's moſt ſerene grandfather King James the ſixth, of bleſſed memory, to umquhile J. Lord L. dated the 14th day of January 1600; *(after this there followed ſeveral other lands, weekly markets, and then it bears)* which title of honour, dignity, and haill lands, baronies, rights of patronages, mills, woods, fiſhings, burgh of barony, free fairs, weekly market, dwelling-houſe, teinds, annualrents, office of ſheriffſhip of F. and others particularly and generally above mentioned, are all united, annexed, created, erected and incorporated in a haill and free barony, lordſhip and earldom, to be called now, and in all time coming, the barony, burgh of barony, lordſhip of L. and earldom of R. conform to a charter granted by his Majeſty's deareſt brother Charles the ſecond, of bleſſed memory, in favours of J. D. of R. dated at Whitehall the 4th day of June 1663. And likeways all and haill the lands and barony of C. called —— with the manor-place, houſes, biggings, *&c.* lying within the regality of D. and ſheriffdom of F. as alſo, all and haill the teinds, great and ſmall, as well parſonage as vicarage, of all and ſundry the ſaid lands and barony of C. *alias* L. C. comprehending the particular lands and others above and under written, with the pertinents, *viz.* *(here the lands immediately above written were* de novo *inſerted, and the reaſon afterwards appears, and there is added)* with the advocation, donation, and right of patronage of the pariſh and pariſh-church of K. with all benefits, emoluments, caſualties, and privileges thereof, lying within the pariſh of K. regality of D. and ſheriffdom of F. foreſaid. *And ſicklike*, by a charter under the great ſeal, of the date at Whitehall the 12th day of March 1667, granted in favours of the ſaid umquhile D. of R. the ſaid teinds, parſonage and vicarage, and patronage *reſpectivè* above written, are diſſolved from the ſaid lordſhip and regality of D. the crown and patrimony thereof, and from all other lordſhips, dignities, and other benefices to which they were formerly annexed, and the ſame for the future annexed to the ſaid lands and barony of C. L. and the ſaid teinds, included with the ſtock, and decerned never again to be ſeparated therefrom for the future; and by the ſaid charter, the ſaid haill lands and barony of C. L. *alias* L. C. comprehending the lands and others above written, together with the advocation, and right of patronage of the pariſh-church of K. with the teinds, parſonage and vicarage of the ſaid barony, of new united, annexed, created and incorporated in a haill and free barony, to be called now, and in all time coming, the barony of C. L. *(after this ſome more lands followed, and the ſaid barony immediately above written, with the teinds and patronage included, and bears* in fine) all united and annexed to the ſaid earldom of R. lordſhip and barony of L. conform to the infeftments and rights thereof *reſpectivè*, granted by the ſaid King Charles the ſecond, in favours of the ſaid J. D. of R. thereupon, under the great ſeal; which title of honour, lands, earldom, lordſhip, baronies,

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burgh of barony, fairs, weekly markets, rights of patronage, teinds, office of ſheriffſhip, and others *reſpectivè* above written, with the pertinents, pertained heritably of before to the ſaid M. C. of R. as eldeſt lawful daughter and heir of tailzie and proviſion of the ſaid J. D. of R. Lord High Chancellor of his Majeſty's kingdom of Scotland, ſerved and retoured, to be holden of his Majeſty and his ſucceſſors, as immediate ſuperiors thereof, and which were by her, with conſent of the ſaid umquhile C. Earl of H. her huſband, for his intereſt, and their lawful procurators in their names, to that effect ſpecially conſtitute, and patent letters duly and lawfully reſigned in the hands of his Majeſty's Lord High Treaſurer and treaſurer-depute for the time, and of the remanent Lords of his Majeſty's exchequer, his Majeſty's commiſſioners, having his Majeſty's power to receive reſignations, and thereupon to grant new infeftments at Edinburgh the 18th day of January 1674, in favours and for new infeftment of the ſame, to be made and granted to the ſaid M. C. of R. and to the ſaid umquhile C. Earl of H. her huſband, and to the longeſt liver of them two in liferent, during all the days of their lifetime, and to the ſaid J. L. of L. and to his heirs-male, or eldeſt heir-female of his body; which failing, to the other heirs-male of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above mentioned, reſerving always to A. D. of R. her liferent of ſo much of the ſaid lands and others above written, with the pertinents, as are provided to her by the ſaid J. D. of R. her huſband, conform to her rights and infeftments thereof, during all the days of her lifetime; and with this proviſion and declaration, nevertheleſs, as by theſe preſents it is ſpecially provided and declared, that it ſhall be always lawful to the ſaid M. C. of R. at any time in her own lifetime, by herſelf alone, without the conſent of the ſaid J. L. of L. her ſon, and his foreſaids, or of the other heirs of tailzie and proviſion *reſpectivè* above mentioned, or any of them, not only to ſell, annalzie, and diſpone, or impignorate any part of the ſaid lands and eſtate irredeemably, or under reverſion, or annualrents to be uplifted forth thereof, for payment of the debts and ſums of money due and reſting by her, contained in a ſchedule, or liſt and inventory thereof, ſubſcribed, or to be ſubſcribed by the ſaid C. and of all other debts and ſums of money which ſhall hereafter appear or emerge due by the ſaid D. of R. as well of thoſe which by legal ſentences are already or hereafter ſhall be eſtabliſhed, as of thoſe which already are, or hereafter, by tranſaction or compoſition, ſhall be componed by the ſaid C. of R. as alſo, to contract, burden, and affect the ſaid lands and eſtate, or any part thereof, with the ſum of —— money of his Majeſty's kingdom of England, for the ſaid C. her honourable affairs and occaſions, as to her ſhall ſeem expedient: And ſicklike, to enter and receive the tenants and vaſſals of the ſaid haill lands and eſtate, and to ſet tacks thereof for the ſaid C. her lifetime, and —— years thereafter, or to give out the ſame in feu-farm, or any other manner of way, at a juſt worth and avail, as accords, providing that the price of the ſaid feus ſhall be applied and diſpoſed of for payment of the ſaid debts, contained in the ſaid inventory, or of the ſaid ſum of —— Sterling, with which ſhe is in power to affect and burden the ſaid eſtate; and upon the whole premiſſes *reſpectivè*, to make, grant, ſubſcribe,

and deliver all contracts, obligations, diſpoſitions, charters, infeftments, aſſedations, rentals, and other rights and ſecurities requiſite thereanent by the ſaid C. herſelf, without conſent of the ſaid J. Lord L. her ſon, and his foreſaids, or of the remanent heirs-male and of tailzie *reſpectivè* above ſpecified, or any of them, as ſaid is, notwithſtanding of the fee thereof above provided, ſicklike, and as freely in all reſpects, as if the ſaid fee had not been provided to the ſaid J. Lord L. her ſon and his foreſaids; and failing of them, to the other heirs-male and of tailzie above mentioned; and which deeds, rights and ſecurities *reſpectivè* above ſpecified, ſo to be made and granted by the ſaid C. in the premiſſes, in manner foreſaid, the ſaid J. Lord L. her ſon and his foreſaids, which failing, as ſaid is, ſhall not only be holden and obliged to obſerve, obtemper and fulfil, according to the form and tenor thereof, but alſo not only to ſatisfy and pay all the ſaid debts contained in the ſaid inventory, and others, in manner above mentioned, but likeways the ſaid ſum of —— Sterling, with which the ſaid C. has power to burden the ſaid lands and eſtate, in manner foreſaid, (at leaſt ſo much thereof with which it ſhall happen the ſaid C. to contract and to burden the ſaid eſtate) ſicklike, and in the ſame manner as if the ſaid J. Lord L. or his foreſaids, were ſerved and retoured heirs in the ſaid eſtate to the ſaid M. C. of R. providing that the ſaid power and faculty reſerved to her be without prejudice to the ſaid A. D. of R. her mother, of her liferent above reſerved to her any manner of way: *And in like manner*, with this proviſion and declaration always, likeas it is hereby ſpecially provided and declared, that if (failing heirs of the ſaid J. Lord L. his body) M. T. H. his brother, heir of tailzie, and ſucceſſor in the dignity and eſtate of H. to the ſaid umquhile C. E. of H. or his heirs, ſhall happen to ſucceed to the ſaid eſtate, title and dignity of R. then, and in that caſe, the ſaid M. T. H. and his heirs ſo ſucceeding to the ſaid eſtate, title and dignity of R. ſhall be holden and obliged to denude themſelves of the ſaid eſtate, title and dignity of H. and, if entered, to reſign the ſame; and, if not entered, to enter therein, and reſign and to denude themſelves of the ſaid eſtate, title and dignity of H. *omni habili modo*, in favours of M. C. H. his youngeſt brother, procreate betwixt the ſaid C. of R. and the ſaid umquhile C. E. of H. and of the heirs of his body; which failing, in favours of the remanent heirs of tailzie and proviſion contained in the infeftments of the ſaid eſtate of H. *And farther*, that if (failing heirs-male of the ſaid J. Lord L. his body) his eldeſt daughter *ſucceſſivè*, by virtue of this preſent tailzie, ſhall happen to ſucceed to the ſaid eſtate, title and dignity of R. and if, by event, the ſaid eldeſt daughter of the ſaid Lord L. *ſucceſſivè*, or any other daughter of his ſaid brethren ſo ſucceeding to the ſaid eſtate, title and dignity of R. ſhall alſo happen to ſucceed to the eſtate and dignity of H. then, and in that caſe, the ſaid daughter and her heirs ſo ſucceeding to both the ſaid eſtates and dignities, ſhall be holden and obliged to reſign and to denude themſelves *omni habili modo* of the ſaid eſtate and dignity of H. (whenſoever they ſhall happen to ſucceed thereto) in favours of the ſiſter immediately younger *ſucceſſivè*, and of the heirs of her body; which failing, in favours of the other heirs of tailzie and proviſion, contained in the infeftments of the ſaid eſtate of H. *Providing*

H. *Providing* that the ſaid rights and reſignations *reſpectivè* of the ſaid eſtate, title and dignity of H. to be made and granted by the ſaid M. T. H. or by the ſaid eldeſt daughter *ſucceſſivè*, or their heirs ſo ſucceeding to the ſaid eſtate, title and dignity of R. in favours of any other brother or ſiſter neareſt and immediate younger, and their foreſaids, in manner, and in the caſes *reſpectivè* above written, be made and granted, with and under the condition, proviſion and reſtriction to marry, and to bear the name and arms, and with and under the haill other conditions, proviſions, reſtrictions, limitations and qualifications contained, or to be contained in the infeftments of the ſaid eſtate of H. *As alſo*, with this proviſion, that the ſaid M. T. H. or any other of his brethren, or the ſaid eldeſt daughter *ſucceſſivè*, and their heirs ſo ſucceeding to the ſaid eſtate and dignity of R. and denuding themſelves of the ſaid dignity and eſtate of H. in manner, and in the caſes above written, are and ſhall be free and altogether liberated of the haill debts and burdens of the ſaid eſtate of H. and ſhall no ways repreſent the E. of H. and ſhall be ſufficiently liberated, ſecured and relieved of all their debts and burdens which the ſaid ſon or daughter ſhall happen to ſatisfy or pay, before they be holden and obliged, according to the proviſion and obligement above ſpecified, to diveſt themſelves of the ſaid eſtate and dignity of H. in favours of the brother or ſecond ſiſter, or immediate younger for the time exiſting, and of the heirs of tailzie and proviſion foreſaid; and that the ſaid ſon or daughter, and their heirs, ſo obliged to diveſt themſelves, as ſaid is, in favours of the ſecond or neareſt immediate and lawful brother or ſiſter, and their foreſaids, diveſt and denude, with the burden of the ſaid remaining debts of the ſaid family of H. and with which the ſame ſhall always remain affected; and that the ſaid ſecond or younger brother or ſiſter, and their foreſaids, ſhall be bound and obliged, and by the acceptation of theſe preſents, bind and oblige them to relieve the ſaid M. T. H. or any other his brother, and the ſaid eldeſt daughter *ſucceſſivè*, and the heirs of their bodies ſo denuding in manner foreſaid, of the ſaid remaining debts, and to grant all kind of ſecurity, as well perſonal as real, for that effect to them, before they be holden to denude in manner above rehearſed: *And ſicklike*, with this proviſion and declaration always, that all the ſaid heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above written, (as well male as female) ſucceeding to the ſaid title, eſtate and dignity of R. ſhall be holden, aſtricted and obliged, and, by the acceptation of theſe preſents, bind and oblige themſelves to one another, in all time coming, to aſſume and take the ſurname of L. and to uſe, bear and carry the arms and honours of the houſe and family of R. and no other ſurname or arms in the firſt place, anytime after their ſaid ſucceſſion: *And in like manner*, the ſaid daughters, or heirs-female ſucceeding to the ſaid eſtate, by virtue of the ſaid tailzie, if, the time of their ſucceſſion, it fall out they be not married, ſhall be holden, aſtricted and obliged, and by the acceptation of theſe preſents, bind and oblige them to marry a nobleman or gentleman of the ſurname of L. or who ſhall aſſume the ſurname of L. and they and their heirs ſhall bear and carry the ſurname, arms, honours and dignities of the ſaid houſe and family of R. *And likeways*, if the ſaid daughters or heirs-female ſucceeding in the ſaid eſtate, ſhall

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happen to be married the time of their ſucceſſion, then, and in that caſe, the ſaid daughters, and their heirs of the ſaid marriages, ſhall alſo be holden and obliged, and by the acceptation hereof, bind and oblige them to bear and carry the ſaid ſurname, arms and dignities of L. of the family of R. in all time after their ſucceſſion aforeſaid, as ſaid is; in which, if they, or any of them, ſhall fail, the party deficient and contravening, ſhall forfeit, tine and amit their right of ſucceſſion of the ſaid lands, dignity and eſtate, and the ſame ſhall come, devolve upon, and pertain to the next and immediate heir of tailzie, for the time exiſting, who ſhall have the right of ſucceſſion thereto, and that by declarator, adjudication, ſervice, or otherways, as accords, and as uſe is in the like caſes, in manner under written: *Providing always*, that if the ſaid J. Lord L. or heirs of his body, or any other of the heirs of tailzie, male or female *reſpectivè* above mentioned, ſucceeding, or who having right of ſucceſſion to the ſaid lands, earldom and eſtate, by virtue of the ſaid tailzie, ſhall alſo ſucceed to ſuch other eſtates and dignities, by which they ſhall be obliged to bear and carry any other arms and dignity beyond the ſaid arms and dignity of the family of R. whereby both the ſaid eſtates, and dignities thereof, or either of them, may happen to be confounded and ſuppreſſed; for preventing thereof, it is hereby provided and declared, that notwithſtanding the ſaid condition and reſtriction above ſpecified, anent the bearing of the ſaid ſurname, arms and dignities, it ſhall be always lawful, even to the ſaid J. Lord L. or to the heir-male of his body, or to any others of the heirs of tailzie and proviſion *reſpectivè* above written, male or female ſucceeding, or having right of ſucceſſion, not only to the ſaid eſtate and dignities of R. but alſo to ſuch other eſtates and dignities to them provided, bearing and carrying any other arms and dignities in manner foreſaid, to aſſume and take the dignities of the ſaid other eſtate, in which they ſucceed, or ſhall have right of ſucceſſion, and by the dignities of both the ſaid eſtates, to be deſigned, and to bear and carry the arms and honours of both families in a quadrate armour or ſhield, (the arms and dignities of the family of R. being always placed in the principal and firſt place) and they always carrying, bearing and uſing the ſurname of L. and no other ſurname, in all time after their ſaid ſucceſſion: *As alſo*, with this proviſion and declaration, nevertheleſs, likeas by theſe preſents it is ſpecially provided and declared, that it ſhall be no ways leiſome or lawful to the ſaid J. Lord L. nor to the heirs of his body, neither to any others, the heirs of tailzie and proviſion *reſpectivè* above written, whether males or females ſucceeding in the ſaid lands, earldom and eſtate above ſpecified, by virtue of the ſaid tailzie and ſubſtitution, nor to any of them, to ſell, annalzie, diſpone, dilapidate, or put away the ſaid lands and eſtate, or any part or portion thereof, nor to infringe or innovate this preſent tailzie, nor to contract or undergo debts, or to do or commit any other fact or deed, civil or criminal, whereby the ſaid earldom, lands and eſtate above written, may be any ways appriſed, adjudged, evicted, or forfeited from them, or may be any ways affected, in prejudice and defraud of the ſubſequent heirs of tailzie and proviſion above mentioned *ſucceſſivè*, conform to the order and ſubſtitution above ſpecified; neither ſhall it be lawful to the ſaid J. Lord L. and his

foreſaids,

foresaids, nor yet to any others of the heirs of tailzie and provision above expressed, to permit the said lands and estate, or any part thereof, to be evicted, adjudged, appriſed, or any ways affected, for any debts or deeds contracted or committed by them before their ſucceſſion, or by any of their predeceſſors, whom they any ways ſhall repreſent, or in which they, as their repreſentatives, may be liable and ſubject; all which deeds are not only declared *ipſo facto*, void and null, by way of exception or reply, and without declarator, in ſo far as they burden and affect the ſaid eſtate; but alſo it is provided and declared, that the heirs-male and of tailzie aforeſaid, who ſhall contravene and incur the ſaid clauſes irritant, or any of them, by not aſſuming the ſaid ſurname, arms and dignity of L. of R. or by the ſaid heirs-female being unmarried, and not marrying to a nobleman or gentleman of the ſurname of L. or who, and their heirs, ſhall aſſume the ſaid ſurname, and carry and bear the arms and honours thereof, or the ſaid heirs-female married to thoſe exiſting, and their heirs of the ſaid marriages, not aſſuming and bearing the ſaid ſurname, arms and dignities, as ſaid is, or who ſhall infringe or innovate the ſaid tailzie, contract debts, or commit any other fact or deed whereupon the ſaid lands, earldom and eſtate, or any part thereof, may be any ways evicted or affected, in manner foreſaid, or who ſhall permit the ſaid lands and eſtate, or any part thereof, to be evicted, adjudged, appriſed, or any ways affected for any other debts or deeds contracted or committed by them before their ſucceſſion, or by any of their predeceſſors whom they ſhall repreſent, and in which they may be only liable, as repreſenting them any manner of way, that then, and in any of theſe caſes, the perſon or perſons ſo contravening, in manner foreſaid, ſhall forfeit, amit and tine their right of ſucceſſion of the ſaid lands and eſtate, and all infeftments and pretended rights thereof, in their perſons, ſhall thereafter expire and become extinct, void, null, and of no effect *ipſo facto*, by way of exception or reply, and without declarator, as ſaid is; and the ſame ſhall devolve, accreſce and belong to the next and immediate heir of tailzie (for the time exiſting) who, by virtue of the tailzie and ſubſtitution aforeſaid, is appointed to ſucceed to the ſaid lands, earldom, and eſtate; to whom it ſhall be lawful either to ſerve as heir in ſpecial therein to them, who died laſt infeft before coming in the contrary, and to be retoured and infeft thereupon, or otherways, by declarators, adjudications, or other legal ſentences to be proſecuted, whereby the right of the ſaid lands and eſtate may be formally eſtabliſhed in their perſons, and of the remanent heirs of tailzie who are to ſucceed to them, in manner as is above provided, and with and under the reſervations, burdens, conditions, proviſions, limitations, reſtrictions and qualifications *reſpective* above rehearſed, without any acknowledgment of, or being ſubjected to the debts or deeds of theſe coming in the contrary, any manner of way, ſo that the ſaid tailzie, according to the genuine intent and purpoſe of theſe preſents, ſhall ſtand inviolable and irrefragable in all time coming, any law, practique or conſtitution whatſoever, made, or to be made, notwithſtanding; declaring nevertheleſs, that, notwithſtanding the ſaid limitation and reſtriction above written, it ſhall be lawful to, and in the power of the ſaid J. Lord L. and his foreſaids, and to the remanent

nent heirs of tailzie and proviſions above mentioned, to burden and affect the ſaid lands and eſtate with the foreſaid debts, contained in the ſaid ſubſcribed inventory, and others above expreſſed; as alſo, with the ſum of —— Sterling, with which the ſaid C. of R. has power to burden the ſaid lands and eſtate, in manner foreſaid; at leaſt with ſuch of the ſaid debts, and ſums of money, and ſo much of the ſaid —— Sterling, as it ſhall happen her to contract upon the ſaid eſtate, and which ſhall be reſting unpaid by the ſaid C. the time of her deceaſe, and ſhall not be ſatisfied and paid by her moveables, or otherways: *And likeways* to provide competent and convenient liferents, portions and proviſions to their huſbands, ladies, bairns and grandchildren, and ſuch as the ſaid eſtate may goodly perform and bear, and as two of the neareſt friends, one on the father's part, and another on the mother's part, ſhall think fit and agree to the ſaid liferent rights in favours of the huſbands and ladies, not exceeding —— at one and the ſame time; and the ſaid portions and proviſions in favours of the ſaid children, not exceeding the ſum of —— and to grant obligations, impignorations, infeftments, and other ſecurities requiſite thereupon, and with which the ſaid lands and eſtate ſhall be burdened and affected, notwithſtanding the reſtriction and proviſion above ſpecified: *Providing* always, that the ſaid J. Lord L. and his foreſaids, and remanent heirs of tailzie and proviſion above ſpecified, ſucceeding in the ſaid lands, earldom and eſtate, ſhall be holden and obliged, and by the acceptation of theſe preſents, bind and oblige themſelves and their foreſaids, no ways to ſuffer and permit the ſaid lands and eſtate, or any part thereof, to be adjudged or appriſed for the ſaid debts, ſums of money, portions and proviſions *reſpectivè* above written, for which they have power to burden the ſaid lands and eſtate in manner above expreſſed; at leaſt not to ſuffer and permit the legal reverſions of the ſaid appriſings and adjudications to expire, whereby the ſaid tailzie (for preſervation of the ſaid eſtate) is eſtabliſhed and intended, may be any ways rendered of no force, or eluſory, or in vain, and at leaſt to purge and redeem the ſame within the ſpace of one year, before the expiration of the legal reverſions of the ſaid appriſings or adjudications, according to the time preſcribed by act of parliament, or any ſupervenient law; and if the ſaid heirs male and of tailzie, or their foreſaids, delay and procraſtinate to redeem or purge the ſaid appriſings or adjudications, then, and in that caſe, they ſhall not only tine and amit all right of reverſion, or other right competent of the law to the ſaid eſtate; but alſo, it ſhall be lawful to the next and immediate heir of tailzie (for the time exiſting) to interrupt and interpel the expiration of the legal reverſions of the ſaid appriſings or adjudications *reſpectivè*, any time within a year before the expiring thereof, or to compone, ſettle and tranſact for the ſaid appriſings or adjudications within a year of the expiration, as ſaid is, for their own proper uſe (the ſaid rights being always bought and acquired to the exiſtents, with and under the haill reſervations, burdens, conditions, proviſions, qualifications and limitations of the ſaid tailzie, and that cumulative, and beſides, and beyond, and without prejudice of the ſaid other clauſes irritant and reſtrictions above mentioned. *And in the laſt place*, it is hereby ſpecially provided, That because

cauſe the ſaid haill lands, earldom and eſtate is provided to the ſaid M. C. of R. therefore ſhe ſhall be holden and obliged, likeas by the tenor hereof, ſhe binds and obliges herſelf to aliment, entertain and educate the ſaid J. Lord L. her ſon; which failing, the other heirs of the ſaid C. her body, ſucceeding to the ſaid title, dignity and eſtate, in all neceſſaries, according to their degree and quality, during her lifetime, at leaſt until they be married; and if the ſaid J. Lord L. and failing of him, the other heirs of the ſaid C. her body, ſucceeding to the ſaid title, dignity and eſtate, in manner foreſaid, ſhall happen to marry, during the lifetime of the ſaid C. then, and in that caſe, ſhe ſhall be holden to renounce, and in that caſe, hereby renounces her liferent right of as much of the ſaid lands as will yearly extend in free rent to the ſum of —— in favours of the ſaid J. Lord L. or of the other heirs of the ſaid C. her own body, ſucceeding to the ſaid title, dignity and eſtate allenarly, to be poſſeſſed, enjoyed and uplifted by them, freely, during all the days of her lifetime; upon the which haill reſervations, burdens, conditions, proviſions, reſtrictions, limitations and qualifications *reſpectivè* above mentioned, the ſaid tailzie, reſignation, and this preſent infeftment, are granted and accepted, and no other ways, as authentick inſtruments taken upon the ſaid reſignation in the hands of J. M. notary-publick, more fully proport: *Moreover*, his Majeſty, with conſent foreſaid, has given, granted, diſponed, and for his Majeſty and his royal ſucceſſors, perpetually confirmed, likeas by the tenor hereof, his Majeſty gives, grants, and diſpones, and for his Majeſty and his ſucceſſors perpetually confirms to the ſaid M. C. of R. and her ſaid ſucceſſors ſucceeding to her in the ſaid eſtate and dignity, and her aſſignees whatſoever, heritably, (under reverſion always in manner under written,) *all and haill* the lands of P. and L. with the manor-place, lying within the ſheriffdom of F. which lands, and others immediately above written, with the pertinents, pertained heritably of before to J. P. of L. holden by him immediately of his Majeſty and his ſucceſſors, as immediate lawful ſuperiors thereof, and which were by him, and his lawful procurators in his name, to that effect ſpecially conſtitute, and patent letters duly and lawfully reſigned in the hands of the ſaid Lords of his Majeſty's treaſury and exchequer, his Majeſty's commiſſioners above mentioned, at Edinburgh the —— day of —— 17— years, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid C. and her foreſaids, heritably, in ſuch due and competent form as accords: *Providing* always, that the ſaid lands of P. and L. with the pertinents, ſhall be redeemable by W. now E. of C. and his creditors, from the ſaid C. and her foreſaids, for payment of the principal ſum of —— Scots money, with the haill —— annualrents thereof, liquidate expences, and termly failzies of the ſame, due, and incurred for the time, contained in a bond granted by umquhile J. E. of C. and W. now E. of C. therein deſigned Lord L. his ſon, in favours of the ſaid deceaſed J. D. of R. dated the —— day of —— 17— years, and that in ſo far as is not paid by the ſaid C. her intromiſſions with the ſaid lands, or any other lands or eſtate, belonging to the ſaid E. of C. or any part thereof, or annualrent, or other duty upliftable forth of the ſame; as alſo with this proviſion, that the ſaid C. her acceptation of the right and diſpoſition of the

ſaid lands from the ſaid J. P. with the ſaid reſignation; and this preſent infeftment ſhall no ways prejudge her of any other right granted by the ſaid umquhile J. E. of C. and W. now E. of C. or any of them, in favours of the ſaid J. D. of R. her father, conjunctly with other creditors, ſo that the ſaid C. may obtain her proportional part, in ſo far as the ſaid C. ſhall not be found paid by the ſaid lands of P. and L. diſponed to her in manner foreſaid, as authentick inſtruments taken upon the ſaid reſignation, in the hands of the ſaid J. M. in themſelves more fully is contained: *And farther*, his Majeſty, with advice and conſent foreſaid, has of new united, annexed, created and incorporated, and by theſe preſents, of new unites, annexes, erects, creates and incorporates all and ſundry the ſaid honour, title, dignity, lands, lordſhips, baronies, rights of patronages, mills, woods, fiſhings, burgh of barony, weekly markets, yearly fairs, teinds, annualrents, office of ſheriffſhip, and others particularly and generally above mentioned, (except the ſaid lands of P. and L. proceeding upon the ſaid reſignation of the ſaid J. P.) in an haill and free earldom, lordſhip and barony, now (as formerly) and in all time coming, to be called the earldom of R. lordſhip and barony of L. and ordains that a ſaſine now to be taken by the ſaid C. of R. and J. Lord L. her ſon, and his foreſaids in all time coming, at the manor-place of L. or upon the ground of whatſoever part of the lands, and others *reſpectivè* above written, ſhall ſtand a valid and ſufficient ſaſine to them for the ſaid honour, title and dignity, and haill lands, lordſhips, baronies, mills, woods, fiſhings, towers, fortalices, burgh of barony, fairs, markets, right of patronages, annualrents, teinds, offices, and others *reſpectivè*, particularly and generally above ſpecified, (except for the ſaid lands of P. and L. with the pertinents thereof foreſaid) notwithſtanding that they ly diſcontiguous and within divers ſheriffdoms and juriſdictions; whereanent (and with all following thereupon, or may be objected againſt the ſame) his Majeſty, with advice and conſent foreſaid, has diſpenſed, and by theſe preſents, diſpenſes for ever; as alſo, his Majeſty, for him and his foreſaids, wills, grants, decerns and ordains, that a ſaſine to be taken now by the ſaid C. and by her foreſaids in all time coming, upon the ground of any part of the ſaid lands of P. and L. ſhall ſtand good, and be a valid and ſufficient ſaſine to them for the ſaid haill lands, with the pertinents thereof, notwithſtanding that the ſame ly diſcontiguous; whereanent alſo his Majeſty diſpenſes for ever, to be holden, and for to hold all and haill the ſaid honour, title, dignity, lands, lordſhips, baronies, burgh, free fairs, weekly markets, mills, woods, fiſhings, rights of patronages, teinds, office of ſheriffſhip, and others *reſpectivè* particularly and generally above mentioned, with the haill parts, pendicles, privileges and pertinents of the ſame, lying in manner foreſaid, (and by the tenor hereof, of new united, annexed, created and incorporated, as ſaid is) to the ſaid M. C. of R. in liferent, during all the days of her lifetime, and to the ſaid J. Lord L. her ſon, and to his heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above mentioned (with and under the haill reſervations, burdens, proviſions, reſtrictions, limitations and qualifications *reſpectivè* above written) of his Majeſty and his royal ſucceſſors, in free earldom, lordſhip, barony, and burgh of barony, fee and heritage for e-

ver;

ver; as alſo, the ſaid lands of P. and L. with the pertinents, to the ſaid C. and her foreſaids, of his Majeſty and his ſucceſſors, in taxt-ward, fee and heritage for ever, by all right, meiths and marches of the ſame, old and devided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* mills, fiſhings, *&c.* hawking, hunting, *&c.* coals, coal-heughs, *&c.* court-plaints, herezalds, bloodwits, *&c.* with furk, foſſe, *&c.* infang-thief, outfang-thief, pit, gallows, and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefore yearly, the ſaid M. C. of R. during all the days of her lifetime, and after her deceaſe, the ſaid J. Lord L. her ſon, and his heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above ſpecified, to his Majeſty and his royal ſucceſſors, the feu-farm-duties, blench-duties, and taxt-ward-duties, and other duties *reſpectivè* particularly under written, *viz.* for the ſaid lands and old barony of L. comprehending and lying as ſaid is, with the ſaid office of ſheriff of the ſaid ſheriffdom of F. haill profits, liberties, privileges and caſualties thereof, and parſonage-teinds of the ſaid lands of H. with the pertinents, three pennies uſual money of the ſaid kingdom of Scotland, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, for the ſaid lands of P. with the meadow and orchards thereof, together with the woods of the ſaid lands called —— and its pertinents, the ſum of ten pounds ſix ſhillings and eight pence money above written, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty allenarly; as alſo, the heirs above ſpecified of the ſaid M. C. of R. and J. Lord L. her ſon, doubling the ſaid feu-duty the firſt year of their entry to the ſaid lands, as uſe is, of feu-farm; as alſo, building and ſuſtaining upon the ſaid lands a ſufficient manſion or dwelling-houſe, with hall, chamber, kitchen, barn, byre, dove-cot, orchards, and other policies correſponding to the ground allenarly for the ſaid ſalmon fiſhing, with the teinds thereof included, the ſum of four pounds money above ſpecified, as price of a barrel of ſalmon, as the ancient farm and duty uſed and wont to be paid therefore; and for the ſaid iſles, with the teinds included, the ſum of twenty merks money above written, at the terms of Whitſunday and Martinmas by equal portions, in name of feu-duty, and the heirs of the ſaid Lord L. doubling the ſaid feu-duty the firſt year of their entry, as uſe is, of feu-farm allenarly; and for the haill remanent lands, baronies, patronages, and others particularly and generally above rehearſed, contained in the charter and infeftment granted by his Majeſty's deareſt brother Charles the ſecond, of bleſſed memory, under the great ſeal, in favours of the ſaid J. D. of R. thereupon, of the date the 4th of June 1663, a red roſe at the ſaid tower, fortalice, and manor-place of L. at the feaſt of midſummer, in name of blench-farm, if it be aſked allenarly, notwithſtanding that the ſaid haill other lands and barony, and others particularly and generally above mentioned, were holden by the ſaid umquhile D. of Rothes, and his predeceſſors and authors, of his Majeſty's moſt noble and ſerene progenitors, by ſervice of ward and relief, becauſe his Majeſty's moſt dear brother above mentioned (for the cauſes ſpecified in the ſaid charter granted to the ſaid D. of R.) changed and altered the form and manner of the holding of the lands, baronies, and others *reſpective* above

written, holden by ſervice of ward and relief, from ward to blench-farm, to be holden then, and in all time thereafter of his Majeſty and his ſucceſſors, in free blench-farm, in manner, and for payment of the blench-duty above mentioned allenarly, for the ſaid lands and barony of C. called L. C. *&c.* lying as ſaid is, the ſum of twenty ſhillings money foreſaid, in name of —— (*but I ſuppoſe to be blench-duty*) uſed and wont, and contained in the ancient infeftments of the ſaid lands and others foreſaid, for the ſaid teinds, great and ſmall, as well parſonage as vicarage of the ſaid lands and barony, with the advocation, donation, and right of patronage of the ſaid pariſh-kirk and pariſh of K. the ſum of two ſhillings money foreſaid, yearly at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, and to the miniſter ſerving the cure at the ſaid kirk of K. and his ſucceſſors in that charge, a proportional part of their ſtipend due forth of the ſaid teinds, according to uſe and wont, for all other burden, exaction, queſtion, demand, or ſecular ſervice, which may be any ways juſtly aſked or required forth of the ſaid lands, barony, teinds, patronage, and others foreſaid, by whatſoever manner of way: *With this proviſion* notwithſtanding, that whenever it ſhall happen the ſaid lands, barony, and others foreſaid, or any part thereof, to fall and become in the hands of his Majeſty, or his royal ſucceſſors, by reaſon of ward or non-entry; yet nevertheleſs, the heirs of tailzie, proviſion, and aſſignees of the ſaid C. of R. and of J. Lord L. ſhall peaceably poſſeſs, bruik and enjoy the ſame, for payment yearly of the ſum of forty merks money foreſaid, during the time of the ward and non-entry, as much for the relief, and of the ſum of two hundred merks money above written, for the marriage of the heir, when it ſhall happen; to which reſpective duties, his Majeſty's deareſt brother Charles the ſecond, of bleſſed memory, for himſelf and royal ſucceſſors, taxed the ſaid ward, non-entry, relief, and marriage, thereafter in all time coming, and now, as if the ſaid ward, non-entry, relief, and marriage *reſpectivè*, had already fallen out, and then, as now, his ſaid Majeſty's deareſt brother diſponed the ſame to the ſaid umquhile J. D. of R. and his foreſaids, for payment of the taxt-ward-duties above ſpecified, conform to the ſaid charter under the great ſeal, granted to the ſaid D. of R. thereupon, dated the 12th of March 1667, for the ſaid lands of C. *&c.* the ſum of thirteen pounds and ſix ſhillings money foreſaid, with ſeventeen bolls (except two little pecks of oat-meal, good and ſufficient meaſure of merchant-ware) with twenty-four poultry, and for graſſum yearly, the ſum of five pounds ſix ſhillings and eight pennies money foreſaid; and alſo in augmentation of the rental, the ſum of fifty-nine ſhillings three pennies; and ſicklike, paying the ſum of thirty-nine ſhillings eight pennies money above written, which was formerly payable to the convent of the monaſtery of D. or to the maſter of their common little ones, to their pittances; and the ſum of four pounds eight ſhillings and eleven pence in augmentation of the rental yearly, beſides and beyond graſſums, and other profits and farms formerly paid to his Majeſty and his Majeſty's predeceſſors, paſt memory of man, at the terms of Whitſunday and Martinmas, by equal portions, with the duplication of the ſaid feu-duty at the entry of every heir to the ſaid lands of C. with the pertinents; and in like manner, it ſhall not be lawful to the heirs-female, ſucceeding in the right of the ſaid lands, to enter in marriage, or contract, without

without the consent of his Majesty, and licence of his successors had and obtained, and if they do it clandestinely, they shall amit and tine the heritage of the said feu, with this provision and declaration always, that whenever it shall happen the ward of the said marriage to fall and become in the hands of his Majesty, by the succession of the heir-female, in manner above written, that it shall be lawful to the said heir-female to marry without his Majesty's consent, for payment to his Majesty and his successors, of the sum of twenty merks for the said marriage, to which sum the marriage of the said heir-female, whenever it falls out, is taxed in all time coming, notwithstanding the clause and condition contained in the ancient infeftments, which his Majesty's dearest brother renounced and discharged in favours of the said J. D. of R. and his foresaids, for payment of the taxt-ward duty above expressed, for now and for ever, for all other burden, *&c.* which may be any ways asked or required forth of the said lands and others foresaid, by any manner of way, in all time coming, for the said lands of E. S. the quarter or fourth part of a pound of —— within the parish-kirk of C. in name of blench-farm, according to the tenor of the ancient infeftments allenarly, for the said sixth part of the lands of W. S. with the pertinents, the rights and services used and wont: Providing always, that whensoever it shall happen the said sixth part of the lands of W. S. with the pertinents thereof above specified, or any part or portion thereof, holden ward in manner foresaid, to fall and become in his Majesty's hands, by reason of ward; yet nevertheless, the said M. C. of R. and J. Lord L. and their foresaids, shall peaceably possess, bruik and enjoy the same, for yearly payment of the sum of ten merks money foresaid, during the ward and nonentry, as much for the relief, and of the sum of twenty merks for the marriage, as the proportional part corresponding to the said lands, of the sum of ten merks for the ward and nonentry, of the like sum for the relief, and of the sum of forty pounds for the marriage of the heir, to which the said sixth part of the lands of W. S. and the lands of —— with the mill and pertinents, lying within the sheriffdom of F. are taxed by infeftment granted to H. S. of J. and to which sum of ten merks for the ward, nonentry and relief, and twenty merks for the marriage, the said sixth part of W. S. are taxed in all time coming, according to the said charter granted by his Majesty's dearest brother, in favours of the said deceased D. of R. under his Majesty's great seal, of the date the 5th day of August 1670, for the said lands of A. with the mills, *&c.* the service of ward and relief allenarly; providing, nevertheless, that whenever it shall happen the said lands, mills and others above mentioned, or any part or portion thereof, to fall and become in his Majesty's hands, or in the hands of his royal successors, by reason of ward and nonentry, or either of them, that notwithstanding thereof, the heirs of tailzie, provision, and assignees above specified, of the said M. C. of R. and of J. Lord L. shall peaceably possess, bruik and enjoy the same, for payment of the sum of twenty pounds money foresaid yearly, during the ward and nonentry, and as much for the relief, and of the sum of forty pounds money foresaid, for the marriage when it falls, to which sums *respectivè* above specified, his Majesty's dearest brother King Charles II. of ever glorious memory, for himself and his successors, taxed the said ward, nonentry, relief and marriage, of the said lands

of

of A. mills and pertinents thereof above mentioned, in all time coming, in manner, and conform to the charter under the great seal, granted by his said late Majesty Charles II. to Mr. G. G. —— of the same, dated the 25th January 1671, and conform to another charter granted by the said King Charles II. under the great seal, in favours of the said umquhile J. D. of R. then Lord high chancellor of his Majesty's kingdom of Scotland, of the same lands of A. mills and pertinents thereof, dated the 30th July 1675, and for the said lands of P. and L. with the pertinents, the rights and services used and wont before the said resignation, *viz.* the sum of twenty-four pounds money foresaid, as the proportional part correspondent thereto, of the sum of thirty-six pounds yearly, at the feast of Whitsunday and Martinmas in winter, by equal portions, as the taxt-ward duties thereof, and of the lands of L. with the mill of L. and pertinents of the same belonging to the said J. P. and as oft and how oft they fell and became in his Majesty or successors, superiors thereof, their hands, by reason of ward and nonentry, or either of them, and of the like sum of twenty-four pounds money foresaid, as the proportional part of the said sum of thirty-six pounds, for the relief thereof, when the same fell, and of the sum of —— money above written, as the proportional part correspondent to the same, for the marriage of the said heirs, how oft the same should happen to occur, conform to the charter and infeftment of the said lands of P. L. and L. with the mill and pertinents, and of divers other lands and baronies made and granted to the said umquhile J. Earl of C. and L. and to the said W. now Earl of C. then designed Lord of P. his son thereupon, under the great seal, of the date the 1st day of March 1648, and that for all other burden, exaction, profits, duties, demand, or secular service which may be any ways asked or required forth of the said lands and others above expressed, or any part thereof, or for the ward, nonentry and relief thereof, or for the marriage of the heirs, and profits of the same, whenever the same should happen to fall out and occur; and in like manner, by the tenor of these presents, and former charters and infeftments of the said lands and others above rehearsed, it is specially provided and declared, that it shall be always lawful to the heirs-male of tailzie and provision *respectivè* and *successivè* aforesaid, of the said C. of R. and of J. Lord L. her son, to obtain themselves, by brieves forth of the chancellary, duly served, retoured, infeft and seised as heirs to their predecessors, at any time of their minority, in and to the haill foresaid lands and others above written, holden taxt-ward as said is, notwithstanding they formerly held by service of ward and relief, and now hold in taxt-ward, in manner foresaid, for payment of the taxt-ward duties *respectivè* above mentioned, and notwithstanding of whatsoever acts, laws, statutes, practiques or constitutions of the said kingdom of Scotland, made or to be made in the contrary, and without necessity of any other warrant or dispensation for that effect; and anent all which, and with the members of court, persons of inquest, and givers of the seisins, his Majesty, with consent foresaid, by these presents, and as by the former charters and infeftments the same is dispensed with, has dispensed, and by these presents, for him and his royal successors, dispenses for ever, and admit and declare the said brieves, services, retours, precepts thereon under the quarter seal, and seisins to follow upon the same, in the

said

ſaid haill lands and eſtate, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if the ſame were done and expede, after the ſaid heirs-male of tailzie and proviſion their full and perfect ages of twenty-one years complete, albeit not ſo done; whereanent, alſo diſpenſes for ever; and that the ſaid charter be extended in the beſt and moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

This ſignature is in favours of a noble and virtuous lady, the eldeſt daughter and heir of tailzie, beſides that of line, to the Duke of Rothes, a great ſtateſman, and of moſt ſingular endowments, lovely in countenance and perſon, of a ſweet and moſt delectable and affable carriage and deportment, moſt acceſſible in his greatneſs, (no ſmall quality in great men both of honour and in power,) and could hardly give an anſwer either harſh or bad, leaving matters to juſtice, and favouring the innocent; a perſon free of covetouſneſs, elſe by his long continuance in places of eminency, and for a ſeries of years, might have ſwelled and ſoared to the height of riches. He was in many eminent ſtations, as his Majeſty's high commiſſioner in parliament once and again, captain of his Majeſty's guards, Lord high treaſurer of this kingdom, and Lord high chancellor therein; and which ſtation gave him place not only to preſide in parliament, but likeways in all courts depending upon the crown, namely, to ſit and preſide in council, extraordinary Lord of ſeſſion, and preſided in exchequer, when the ſame went by the conſtitution of a treaſury; and once a debate moved, whether he ſhould preſide, when it went by a Lord high treaſurer, but was concerted by the determination and prudence of Our dread Sovereign King Charles II. who promoted the Duke of Rothes, and moſt deſervedly, to all theſe eminent ſtations. And to conclude, and without vanity or vain applauſe, this gentleman, the Duke of Rothes, was admired by all, and hated by few or none, ſuch was his deportment and demeanor, and no leſs judged of him then, that if his letters had anſwered his other moral parts and endowments, few ſtateſmen would compete, beſides to tranſcend him; and for all his great ſtations, which might have obliged him to exceſſive ſpending, and ſo umbraged his eſtate, has left his eſtate in good condition, no ſmall ground of admiration, conſidering his mind was above the world, and not adapted to any thing ſublunary, as that of riches, looking upon ſuch but as tranſitory and fading flowers, yea, ſhadows at the beſt. And this much I ſay of this noble perſon, now in duſt, as all muſt and will, not ſo much that he was always and truly my own great and good friend, as that I think he juſtly deſerved all that is ſaid, and more; and I may have the more credit given me in this, that I never was his writer in ordinary, or had any office of his Grace, but ſhared otherways in his favours, as affairs led me, and fell in his road; and, in gratitude, wiſh his ſucceſſion and race may flouriſh and long continue, as the leaſt tribute I owe his memory.

SIGNATURE

SIGNATURE *of the Earldom of H. and Lordſhip of M. and ſeveral other Baronies, particular Lands, Regalities, Burghs of Barony and Regality, Patronages, Teinds, Offices of Bailliary, and others, in favours of Mr. T. H. ſecond lawful Son and Heir of Tailzie to umquhile C. E. of H. Lord B. and B. procreate betwixt him and M. C. of Rothes, and H. his Spouſe, and to the Heirs-Male of the ſaid Mr. T. H. his Body, which failing, to the other Heirs-Male and of Tailzie after ſpecified, and their Aſſignees, heritably and irredeemably, with and under the haill Reſervations, Conditions, Proviſions, Reſtrictions, Limitations and Qualifications* reſpective *after mentioned, and that upon the eldeſt Son of the ſaid Earl of H. procreate in the ſaid Marriage, now deſigned J. Lord Leſly, his coming to the Honour, Title, and Dignity, as well as the Eſtate of Rothes, by the ſaid M. C. of R. his Mother, who, as Heir of Tailzie to the Duke of Rothes, was inveſted in the Honour and Eſtate, and, upon her Reſignation devolved on her Son, as appears by the Signature immediately before inſert; and becauſe both Signatures run much upon one Strain as to the Stile, and only differ in the Subſtitution, failing of the Deſcendents of the Lady R. her Body, and as to the Eſtate and Manner of Holding, I will be brief in this, and curtly ſum up all by Animadverſions not unworthy the noticing, and have placed the one Signature after the other, for this End and Purpoſe.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here the conſents were inſert, according to the conſtitution for the time, being in a treaſury, not treaſurer*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, giving, granting and diſponing, and for his Majeſty and his ſucceſſors, perpetually confirming, likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to his Majeſty's well-beloved Mr. T. H. ſecond lawful ſon and heir of tailzie of umquhile C. E. of H. Lord B. and B. procreate betwixt him and M. C. of R. and H. his ſpouſe, and to the heirs-male lawfully to be procreate of his body, which failing, to Mr. C. H. third and youngeſt lawful ſon procreate betwixt the ſaid umquhile C. E. of H. and the ſaid M. C. of R. his ſpouſe, and to the heirs-male of the ſaid Mr. C. his body, which failing, to J. L. Leſly, eldeſt lawful ſon procreate betwixt the ſaid umquhile C. E. of H. and the ſaid M. C. of R. his ſpouſe, and to the heirs-male of his body, which failing, to the eldeſt lawful daughter, or heir-female to be procreate of the ſaid Mr. T. H. his body *ſucceſſivè*, without diviſion, which failing, to the eldeſt lawful daughter, or heir-female of the ſaid Mr. C. H. his body, alſo *ſucceſſivè*, and without diviſion, which failing, to the eldeſt lawful daughter, or heir-female to be procreate of the ſaid J. L. L. his body *ſucceſſivè*, and likeways without diviſion, (*after this, the tailzie runs to the deceaſed Earl's ſiſters in order, according to their years, and the heirs-male of their body*) which failing, to their eldeſt daughters or heirs-female without diviſion, which failing, to the Lady K. *&c.* and then to other relations particularly therein mentioned,

tioned, and failing of all, to the ſaid Mr. T. H. his neareſt and lawful heirs and aſſignees whatſoever, heritably and irredeemably, with and under the haill reſervations, conditions, proviſions, reſtrictions, limitations and qualifications *reſpective* after mentioned; all and haill the lands, eſtate, and inheritance of H. comprehending therein all and ſundry the lands, earldom, lordſhips, baronies, burgh of barony, regalities, juriſdictions, privileges, heritable offices, rights of patronages, teinds, and tenements under written, *viz.* all and haill the lands, lordſhip, and barony of M. comprehending all and ſundry the lands, mills, woods, fiſhings, meadows, foreſts, manſions, manor-places, yards, orchards, churches, teinds, and others under written, with the pertinents, *viz.* all and haill the monaſtery and precinct of M. (*after this were all the lands, and what elſe property, regality, and other juriſdiction or ſuperiority, in ſub-vaſſalage belonging to the abbacy of M. inſert, and then*) all united, annexed and incorporated in a haill and free lordſhip and barony, called the lordſhip and barony of M. (thereafter many more lands and others inſert, and deſigned to be within the regality of M. and annexed in and to the lordſhip and barony thereof; after which,) the lands and barony of C. comprehending many particular lands enumerate, with churches, patronages, teinds, fiſhings, and the like, and, in effect, a part of the monaſtery and priory of C. and all united in a free barony, called the barony of C. (after this is inſert the lands, lordſhip and barony of B. comprehending ſeveral lands, burghs of baronies, patronages, teinds, privileges of muirs and paſturage in diſtinct places, with free iſh and entry thereto, *cum vehiculis et vaſtalis*, &c. carts and wains, *&c.* after which the barony of J. comes in, with coal-heughs, and power of winning coals and coal-heughs within flood-mark, in ſight, and within the haill bounds of the lands and baronies of D. and J.) and with full right, privilege and liberty of free ſea-ports for defending and keeping of ſhips within the bounds of the ſaid baronies of D. and J. or within any part or parts thereof, whereſoever the ſame may be conveniently and moſt commodiouſly had and appointed, and for reception of ſhips, barks, boats, or other veſſels coming within the ſaid bounds, with all anchorages, tolls, immunities, cuſtoms, and other duties and caſualties whatſoever, pertaining and incumbent thereto, with power and liberty of erecting and building of ſea-ports, for defence and ſtation of ſhips, within the haill bounds of the ſaid lands and baronies of D. and J. or any part or parts thereof, all formerly united, annexed, erected, and incorporated in a haill and free lordſhip and barony, called the lordſhip and barony of B. (*after this follows*) as alſo, all and haill that part of the muir of Gladeſmuir, lying within the conſtabulary of H. and ſheriffdom of E. which lies on the weſt part of that piece of land, called the Little Mot of G. divided from the reſt of the ſaid muir of G. by a direct line drawn from the north march or limit of G. to the ſaid Little Mot of G. to the ſouth march or limit of the ſaid muir; as alſo, all and haill that part of the muir going eaſtward, or thereby, from the ſaid little Mot of G. to that part of the publick or market way of the ſame, from the weſt to the burgh of H. which is againſt or oppoſite to the eaſt part of the loan of S. as the ſame is marched, limited, and bounded by marches; and in like manner, all and haill the liberty and uſe of the loch of G. exiſting and conſiſting within that part of the ſaid muir, to

remain with the burgh of H. and that for recreation and refreshing, or watering of the said Mr. T. H. and his heirs and successors, and their tenants, their sheep, cows, oxen, horse and beasts in drinking water, and other uses necessary; and for that effect, have designed to the said Mr. T. H. and his predecessors, heirs and successors, a large loaning or passage, commonly called a broad loan from the said Little Mot of G. to the north border of that part of G. and from thence to the middle of the said loch, for refreshing and watering of their sheep, cows, oxen and goods in drinking of water, and for other uses necessary, in breadth and length of the said loan or passage, which the said burgh of H. has from the publick or market way to the said muir of Gladesmuir, as the same is marched and limited, lying within the constabulary of H. and sheriffdom of E. and all and haill the lands and barony of C. comprehending therein the lands, baronies, mills, woods, fishings, and others *respective* particularly under written, *viz.* (*here they were insert, and then*) with burghs of barony, weekly market, yearly fairs, and thereafter all united, erected, annexed, and incorporated in a haill and free barony, called the barony of C. and moreover, all and haill the lands, barony and regality of D. after specified, comprehending all and sundry the temple lands, tenements, churches, and others under written, with the pertinents, *viz.* (*here what comprehended were insert particularly, with their boundings and designations, and by whom possessed, and from whom acquired, and then follows*) together with the right, privilege and jurisdiction of a free regality, within the haill bounds of the said haill lands and others particularly and generally above specified, and all immunities, casualties, profits and duties belonging and appertaining thereto, excepting, (*here were insert what excepted, belonging to particular persons, and then follows*) all united, annexed, erected, created and incorporated in a haill and free barony and regality, called the barony and regality of D. which haill lands, lordships, baronies, regalities, burgh of barony and of regality, jurisdictions, privileges, heritable offices, rights of patronages, teinds, tenements, and others *respective* above written, with the pertinents, pertained heritably of before to his Majesty's right well-beloved cousin, the said C. E. of H. and were by him, and his lawful procurators in his name, to that effect specially constitute, and patent letters, duly and lawfully resigned by staff and baston, as use is, in the hands of his Majesty's principal treasurer, and treasurer-depute, and of the remanent Lords and others of his Majesty's exchequer for the time, his Majesty's commissioners, having power to receive resignations in his Majesty's name, and thereupon to grant new infeftments, as in the hands of his Majesty, superior thereof, at —— the —— day of —— 17— years, in favours and for new infeftment of the same, to be made and granted to the said Mr. T. H. and heirs-male of his body, which failing, to the other heirs male of tailzie and provision *respective* and *successive* above specified, heritably and irredeemably, in such due and competent form as accords; reserving always to the said M. C. of R. her liferent of the castle, tower, fortalice, and manor-place of B. with the haill houses, biggings, yards, orchards, dove-cotes, office-houses, and others belonging thereto, lying within the precinct and greens and parks thereof, for her residence and habitation, and a yearly free annualrent or annuity of —— yearly, in name of dowry, to be uplifted by

by her out of the lands and barony of B. by virtue of her contract matrimonial, and infeftment following thereupon, during all the days of her lifetime; as alſo, reſerving to C. C. dowager of H. mother to the ſaid umquhile C. E. of H. her liferent proviſion of the lands of S. and of the annuity payable to her forth of the lands of T. with the pertinents, conform to her liferent-rights and infeftments granted to her thereupon, during all the days of her lifetime; and which liferents *reſpectivè* in favours of the ſaid M. C. of R. and of the ſaid C. C. dowager of H. with the ſaid liferent rights and infeftments *reſpectivè* granted to them thereupon, his Majeſty, with advice and conſent foreſaid, by theſe preſents, ratifies, approves and confirms in the haill clauſes, tenors and contents thereof, diſpenſing with the generality foreſaid, and with this proviſion and declaration always, likeas by theſe preſents, it is ſpecially provided and declared, that the ſaid Mr. T. H. and the heirs-male of his body, and remanent heirs-male of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above mentioned, ſucceeding in the ſaid title, dignity and eſtate, ſhall be holden and obliged to ſatisfy and pay all the juſt and lawful debts, proviſions, and others reſting by the ſaid umquhile C. E. of H. the time of his deceaſe, notwithſtanding of the ſaid fee, ſicklike, and in the ſame manner, as if they were ſerved and retoured heirs to the ſaid umquhile C. E. of H. in the ſaid lands and eſtate, and as if they had not been provided to the fee thereof; and ſicklike, with this proviſion and declaration always, as by theſe preſents it is ſpecially provided and declared, that if, by deceaſe of the ſaid J. Lord L. without heirs of his own body, it ſhall happen the ſaid Mr. T. H. or the ſaid Mr. C. H. his youngeſt brother, or heirs of their bodies, appointed to ſucceed to the ſaid lands, dignity and eſtate of H. by virtue of the ſaid fee, tailzie and ſubſtitution above written, to fall and ſucceed likeways to the eſtate and dignity of the earldom of R. then and in that caſe, the ſaid Mr. T. H. or the ſaid Mr. C. H. his brother, and heirs of their bodies, ſo ſucceeding to the eſtate and dignity of R. they ſhall be holden and obliged to reſign all right competent, or that may be competent to them of the ſaid eſtate and dignity of the earldom of H. and to denude themſelves thereof, *omni habili modo*, in favours of their younger and immediate next brother, and of the heirs-male of his body, which failing, in favours of the other heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above mentioned, with and under the haill conditions, proviſions, reſtrictions, limitations and qualifications *reſpectivè* above and under written, contained in this preſent infeftment and tailzie; with this proviſion always, that the ſaid Mr. T. H. or the ſaid Mr. C. H. his brother, and heirs of their own bodies, ſo ſucceeding to the ſaid eſtate and dignity of R. and denuding themſelves of the ſaid eſtate and dignity of H. in manner, and in the caſe above expreſſed, ſhall be free and every way liberate of all the debts and burdens of the ſaid eſtate of H. and ſhall no ways repreſent the ſaid umquhile C. E. of H. and ſhall be ſufficiently liberate and relieved of all his debts and burdens which the ſaid Mr. T. H. or the ſaid Mr. C. H. his brother, ſucceeding, ſhall happen to be reſting, or to which they may be rendered obnoxious or liable, before they ſhall be holden and obliged to diveſt themſelves of the ſaid eſtate and dignity of H. in favours of the next and immediate younger brother, and his foreſaids, and that the ſaid Mr.

T. H. or Mr. C. H. his brother, and their foresaids, so astricted, to divest themselves in favours of their brother next and immediately younger, and his foresaids, as said is, shall divest and denude with the burden of the remaining debts of the family of H. and with which the same shall always remain affected, and that the said next and immediate younger brother, and his foresaids, shall be holden and obliged, and, by the acceptation of these presents, bind and oblige them, their heirs and successors, to relieve the said Mr. T. H. and his brother, and heirs of their bodies, so denuding in manner foresaid, of the said remaining debts, and to grant all manner of security, as well personal as real for that effect, to them, before they be obliged to denude in manner above expressed; and in like manner, with this provision and declaration always, that all the said heirs of tailzie and provision above written, as well male as female, succeeding to the said lands, earldom and estate of H. shall be holden, astricted and obliged, and, by the acceptation of these presents, oblige and astrict themselves to one another in all time coming, to assume and take on the surname of H. and the arms and cognizance of the house and family of H. and dignities thereof, and not to use, carry, bear no other surname or arms, in the first place, in all time after their succession; and likeways, the said daughters or heirs-female succeeding to the said estate, by virtue of the said tailzie, if the time of their succession they shall happen not to be married, shall be holden astricted and obliged, and by the acceptation of these presents, bind and oblige themselves to marry to a nobleman or gentleman of the surname of H. or who and their heirs shall assume the surname of H. and bear and carry the arms and cognizance of the house and family of H. as also, if the said daughters and heirs-female succeeding in the said estate shall happen to be married the time of their succession, then and in that case, the said daughters, and their heirs of the said marriages, shall be also holden and astricted, and, by the acceptation of these presents, oblige and astrict themselves to bear and carry the said surname, arms and cognizance of H. of the family of H. in all time after their succession, in manner foresaid; in which, if they, or any of them fail, the party deficient and contravening, shall forfeit, tine and amit the right of succession of the said lands and estate, and the same shall come to be devolved upon, and pertain to the next and immediate heir of tailzie existing for the time, who shall have right of succession thereto, and that by declarator, adjudication, service, or otherways, as accords, and as use is in the like cases, in manner above written; providing nevertheless, that if the said dignity and estate of H. shall come and belong to the said J. L. eldest lawful son of the said umquhile C. E. of H. or his foresaids, or to any other of the heirs of tailzie and provision above specified, who also succeed to the said estate of R. and dignity thereof, wherefore the said lands, estates, and dignities *respectivè*, or either of them, shall happen to be confounded and suppressed, that then, and in that case, it is declared by these presents, that notwithstanding the said condition and restriction above mentioned, it shall be always leisome and lawful to the said J. Lord L. and to the heirs-male of his body, or to any others of the heirs of tailzie and provision *respectivè* above rehearsed, male or female, succeeding in both the said estates and dignities, to assume to themselves, and take on the name of L. and dignity of

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the earldom of R. and to be called and designed Earls and Counteſſes of R. and H. and to bear and carry the arms and cogniſance of both families of R. and H. in a quadrate armour or ſhield (the arms of the family of R. being always placed in the firſt place) in all time thereafter, without contravening or incurring of the ſaid clauſes irritant, anent the aſſumption of the ſurname and cogniſance: *Item*, With this proviſion and declaration always, that it ſhall be no ways lawful to the ſaid Mr. T. H. nor to the heirs-male of his body, neither to any others of the heirs of tailzie and proviſion *reſpectivè* above written, whether male or female ſucceeding in the ſaid lands, earldom and eſtate above ſpecified, by virtue of the ſaid tailzie and ſubſtitution, or to any of them, to ſell, annalzie, diſpone, dilapidate or put away the ſaid lands and eſtate, or any part or portion thereof, nor to innovate or infringe this preſent tailzie, or to contract or undergo debts, neither to act or commit any other fact or act, civil or criminal, upon which the ſaid earldom and eſtate may be any ways appriſed, adjudged, evicted or forfeited, or any ways affected in prejudice and defraud of the ſubſequent heirs of tailzie above mentioned *ſucceſſivè*, according to the order and ſubſtitution above written; neither ſhall it be lawful to the ſaid Mr. T. H. or his foreſaids, nor to any others of the heirs of tailzie and proviſion above ſpecified, to permit the ſaid lands and eſtate, or any part thereof, to be evicted, adjudged, appriſed, or any ways affected for any debts or deeds, contracted or committed by them before their ſucceſſion, or by any of their predeceſſors whom they ſhall any ways repreſent, or in which they may be liable and ſubject, as repreſentatives to them; all which facts and deeds are not only, by theſe preſents, declared void and null, by way of exception or reply, and without declarator, in ſo far as they may burden and affect the ſaid eſtate; *but alſo*, it is hereby provided and declared, that the heirs-male and of tailzie aforeſaid, who ſhall contravene and incur the ſaid clauſes irritant, or any of them, whether by not aſſuming the ſaid ſurname, arms and dignity of H. of H. or by the ſaid heirs-female, being unmarried, and not marrying to a nobleman or gentleman of the ſurname of H. or who, and their heirs, ſhall not aſſume the ſaid ſurname, and bear and carry the arms and cogniſance thereof, or the ſaid heirs-female exiſting, being married to them, and their heirs of the ſaid marriages, by not aſſuming and bearing the ſaid ſurname, arms and dignities, as ſaid is, or who ſhall infringe and innovate the ſaid tailzie, or ſhall contract debt, or commit any other fact whereupon the ſaid lands, earldom and eſtate, or any part thereof, may be any ways evicted or affected, in manner foreſaid, or who ſhall ſuffer and permit the ſaid lands and eſtate, or any part of the ſame, to be evicted, adjudged, appriſed, or any other way affected for any debts or deeds contracted or committed by them before their ſucceſſion, or by any of their predeceſſors whom they ſhall repreſent, and in which they may be liable and obnoxious, as repreſenting them any manner of way; that then, and in either of the ſaid caſes, the perſon or perſons, ſo contravening, as ſaid is, ſhall forfeit, amit and tine their right of ſucceſſion of the ſaid lands and eſtate, and all the infeftments, and pretended rights thereof in their perſons ſhall thereafter expire and fall, and become extinct, void and null *ipſo facto*, by way of exception or reply, and without declarator,

declarator, in manner foreſaid, and the ſame ſhall devolve, fall, and pertain to the next and immediate heir of tailzie for the time exiſting, who, by virtue of the tailzie and ſubſtitution aforeſaid, is appointed to ſucceed to the ſaid lands, earldom and eſtate, to whom it ſhall be lawful to be ſerved as heir in ſpecial therein, to thoſe who died laſt infeft before contravention, and thereupon to be retoured and infeft, or otherways to proſecute, by declarators, adjudications, or other legal ſentences, which may eſtabliſh formally and effectually the rights of the ſaid lands and eſtate in their perſons, and to the remanent heirs of tailzie who are to ſucceed to them in manner as is above provided, and with and under the reſervations, burdens, conditions, proviſions, limitations, reſtrictions and qualifications *reſpectivè* above ſpecified, and without any acknowledgment of, or any ways being ſubject to the debts or facts of the perſon contravener; ſo that the ſaid tailzie, according to the genuine intent and purpoſe of theſe preſents, ſhall ſtand inviolable and irrefragable in all time coming, any law, practique or conſtitution whatſoever, made or to be made in the contrary, notwithſtanding; declaring nevertheleſs, that (notwithſtanding the ſaid limitation and reſtriction above written) it ſhall be lawful to the ſaid Mr. T. H. and his foreſaids, and remanent heirs of tailzie and proviſion above mentioned, to burden and affect the ſaid lands and eſtate, with the haill juſt and lawful debts and burdens due by the ſaid umquhile C. E. of H. the time of his deceaſe, and that ſhall not be ſatisfied and paid by his moveables, and otherways; and alſo, to provide competent and convenient liferents, portions and proviſions to their huſbands, ladies, children and grandchildren, ſuch as the ſaid eſtate may conveniently perform and bear, and as by two of the neareſt lawful friends, one on the father's ſide, and another on the mother's ſide, ſhall be concerted and judged convenient, the ſaid liferents, in favours of the huſbands and ladies, not exceeding —— at one and the ſame time, and the ſaid portions and proviſions in favours of the ſaid children, not exceeding the ſum of —— and to grant bonds, wadſets, infeftments, and other ſecurities requiſite thereupon, and with which the ſaid lands and eſtate ſhall be affected, notwithſtanding the proviſion and reſtriction above mentioned: *Providing* always, likeas by theſe preſents it is provided and declared, that the ſaid Mr. T. H. and his foreſaids, and remanent heirs of tailzie and proviſion above ſpecified, ſucceeding in the ſaid lands, earldom and eſtate, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige themſelves, and their foreſaids, no ways to ſuffer and permit the ſaid lands and eſtate, or any part thereof, to be adjudged or appriſed for the ſaid debts, ſums of money, portions and proviſions *reſpectivè* above written, for which they have power to burden the ſaid lands and eſtate, in manner above expreſſed; at leaſt to permit the legal reverſions of the ſaid appriſings or adjudications to expire, from whence the ſaid tailzie, for preſervation of the ſaid eſtate, is appointed and intented, may be any ways rendered ineffectual or fruſtrated, and that at leaſt within the ſpace of one year before the expiration of the legal reverſions of the ſaid appriſings or adjudications, according to the time preſcribed by act of parliament, or by any ſupervenient law: And if the ſaid heirs-male or of tailzie, and their foreſaids, delay and procraſtinate to redeem

and

and purge the ſaid appriſings or adjudications, then, and in that caſe, they ſhall not only amit and tine all right of reverſion, or other right of the law competent to them to the ſaid eſtate, but alſo, it ſhall be lawful to the next and immediate heir of tailzie, for the time exiſting, to interrupt and interpel the expiration of the legal reverſion of the ſaid appriſings or adjudications *reſpectivè*, any time within a year before the expiration thereof, or to compone, ſettle and tranſact for the ſame, for their own proper uſe, the ſaid right being always bought and acquired to the exiſtant, with and under the haill reſervations, burdens, conditions, proviſions, reſtrictions and limitations of the ſaid tailzie, and that cumulative, and beſides and beyond, and without prejudice of the ſaid other clauſes irritant, and reſtrictions above ſpecified; with and under the which haill conditions, proviſions, reſervations, burdens, reſtrictions, limitations and qualifications *reſpectivè* above mentioned, the ſaid right of tailzie, reſignation, and this preſent infeftment, are granted and accepted, and no otherways, as authentick inſtruments taken upon the ſaid reſignation, in the hands of J. M. notary-publick, in themſelves more fully proport. *Moreover*, his Majeſty, out of his regal authority, and kingly power, with advice and conſent foreſaid, has of new united, annexed, erected, created and incorporated, and by theſe preſents, unites, annexes, erects, creates, and incorporates, all and haill the ſaid lands, earldom, and eſtate of H. above written, with all their pertinents, in a haill and free earldom, lordſhip, and barony, to be called now, as formerly, and in all time coming, the earldom of H. lordſhip and barony of B. and B. ordaining the tower, fortalice and manor-place of —— to be the principal meſſuage of the ſaid earldom, lordſhip and barony: And his Majeſty wills and grants, and for his Majeſty and his royal ſucceſſors, with advice and conſent foreſaid, decerns and ordains, that a ſaſine now to be taken by the ſaid Mr. T. H. and by his heirs-male and of tailzie aforeſaid, in all time coming, at the ſaid principal meſſuage, or upon the ground of any other part of the ſaid lands and earldom, ſhall ſtand good and valid, and be a ſufficient ſeiſin to them for all and ſundry the ſaid earldom, lordſhip and barony, comprehending the ſeveral lands, lordſhips, baronies, burghs of barony, regalities, juriſdictions, liberties, privileges, heritable offices, mills, woods, fiſhings, rights of patronage, teinds, tenements, and others *reſpectivè* above rehearſed, with all their pertinents, notwithſtanding they ly diſcontiguous, and within divers ſheriffdoms and juriſdictions; whereanent, and with all that may follow thereupon, his Majeſty, for him and his royal ſucceſſors, with advice and conſent foreſaid, has diſpenſed, and by theſe preſents, diſpenſes for ever, to be holden, and for to hold, all and haill the ſaid earldom of H. lordſhip and barony of B. and B. comprehending the haill lands, lordſhips, baronies, burghs of barony and regality, juriſdictions, heritable offices, mills, woods, fiſhings, rights of patronages, teinds, tenements, and others *reſpectivè*, particularly and generally above mentioned, with all their pertinents, all lying, deſigned and erected in manner above written, to the ſaid Mr. T. H. and to the heirs-male of his own body; which failing, to the other heirs-male of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above ſpecified, heritably and irredeemably (with and under the haill reſervations, conditions, proviſions,

viſions, burdens, reſtrictions, limitations and qualifications *reſpectivè* above rehearſed) of his Majeſty and his royal ſucceſſors, in free earldom, lordſhip and barony, fee and heritage for ever, by all rights, meiths and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* hawking, hunting, *&c.* mills, woods, fiſhings, *&c.* coals, coal-heughs, *&c.* court-plaints, *&c.* furk, foſs, *&c.* pit and gallows, *&c.* with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but any revocation, *&c. Giving* therefor yearly the ſaid Mr. T. H. and heirs-male of his body, which failing, the other heirs-male and of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above ſpecified, to his Majeſty and his royal ſucceſſors, the feu-duties, blench-duties, and other duties and ſervices *reſpectivè* under written, *viz.* for the ſaid monaſtery, and precinct of M. with the tower, fortalice, manor-place, houſes, biggings, and pertinents thereof, the ſum of ten ſhillings uſual money of the ſaid kingdom of Scotland, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty allenarly, for all and haill the ſaid tenements, acres, and portions of land of M. called Little Fordel, with the pertinents, extending to thirty-one tenements and portions of land, and thirty-one acres of land, the ſum of thirty-one pounds money of the ſaid kingdom of Scotland, in name of feu-duty yearly; and for the ten ſervices of each of the ſaid houſes and acres of land, the ſum of five ſhillings, *inde*, ſeven pounds and fifteen ſhillings, together with five ſhillings money foreſaid, in augmentation of his Majeſty's rental, extending in the haill to the ſum of thirty-nine pounds money above written, yearly, at two terms in the year, *viz.* Whitſunday and Martinmas in winter, by equal portions; *as alſo*, the heirs-male and ſucceſſors of the ſaid Mr. T. H. doubling the ſaid feu-duty at their entry to the ſaid lands, as uſe is, of feu-farm allenarly; and likeways giving and performing three ſuits at his Majeſty's three head-courts, to be holden at the ſaid burgh of M. yearly, as the ſame falls out.

Nota, The *reddendo* of the abbacy, containing many lands, and, for the moſt part, each land its particular *reddendo*, with the ſervices and cuſtoms, and moſtly paid at the terms aforeſaid, I judge it unneceſſary to inſert the ſame, but convenient for information, I give an account of ſome particulars, that, if the like occur, men may not be ſtrangers to the ſame, and when concerned, the infeftments will lead them to it. 1. All victual, cuſtoms, ſervices, and others, are converted as follows: *viz.* each boll of wheat to ten ſhillings, each boll of bear to eight ſhillings, each boll of oats and oat-meal to the like price, each capon to eight pennies, each carriage ſix pennies, and each poultry four pennies, *in optione ſolventis*; only there is a diſtinction in meaſures; for ſometimes they pay girnal meaſure, being thirteen pecks for the boll; ſometimes market meaſure, and at other times country meaſure; and in this the conſtant rule is to be obſerved. 2. The ferry-boat pays twelve ſhillings, with one ſhilling and four pennies in augmentation. 3. Some lands pay thirty pounds Scots in excambion or exchange of three chalders bear, which was the ancient duty; and other lands are thirled to the mill of M. and obliged to pay the accuſtomed multures. 4. Some lands pay ſome of their feu-duty in money, with twenty ſtone of butter, or ſix ſhillings and eight pennies for each ſtone thereof, in the option of the payer. 5. For the town and burgh of regality one ſhilling Scots at the feaſt of Whitſunday in name of blench-farm, if required allenarly. 6. For the teind-ſheaves, and other teinds, a penny money foreſaid at Whitſunday, in name of blench-farm, if required allenarly; and to pay to the miniſter of M. the

M. the number and quantity of ——— victual, and ——— money, as a part of his ſtipend of ——— provided to him by the infeftment of erection of the ſaid lordſhip and barony of M. and furniſhing yearly bread and wine, how often neceſſary, for celebration of the communion at the ſaid church of M. and exonering and relieving the ſaid miniſter, and his ſucceſſors, of all taxations and burdens whatſoever, to be impoſed upon the teinds, fruits and rents of the ſaid church of M. and of all reparation of the ſaid church of M. in all time coming. 7. For the lands of B. and others, the vaſſal pays *ſervitium liberi Dominii et baroniæ, in parliamento noſtro.* 8. The lands and barony of C. (being a priory) hold feu, and the lands, lordſhip, and barony of B. ſtock and teind, and what elſe annexed thereto (except the church lands of B. called the vicar's land, and others annexed to the ſaid vicary) hold blench, for payment of a pair of gloves at Whitſunday, in name of blench-farm allenarly; but the church lands excepted, pay a particular duty, *nomine feude-firmæ.* 9. The town, lands and mains, or dominical lands and mill of D. pay a certain feu-duty, and the two quarter of N. *&c.* and privileges thereof, pay alſo a certain feu-duty, and obliged to build and uphold thereupon a ſufficient hall, chamber, kitchen, byre, and to make all other policy correſpondent to the ſaid lands, and to pay the miniſter's ſtipend effeiring; and to build, repair and ſuſtain the choir of the church, and to pay all taxations and impoſitions affecting the church or teinds, or thereupon to be impoſed *pro futuro*, and to furniſh the communion elements, when the communion is celebrated. 10. They are obliged to pay for the privileges of Gladeſmuir loan and loch, a penny Scots money at Whitſunday yearly, *nomine albæ firmæ, ſi petatur tantum.* 11. They are bound to pay for the land and barony of S. and patronage of the chapel of St. Nicholas, and for the acres adjacent and annexed to the ſaid barony, with the teinds and pertinents thereof, a white roſe *(ſuper ſolo)* at the feaſt of John the Baptiſt, yearly, in name of blench-farm, if required allenarly; and for the lands and barony of C. comprehending the particular lands, mills, woods, fiſhings, burgh of barony, and others annexed thereto, a penny money foreſaid, at the principal meſſuage of the ſaid barony of C. yearly at Whitſunday, in name of blench-farm, if required allenarly; and for the lands, barony and regality of D. comprehending, as in the ſignature, a penny money foreſaid, *ſuper ſolo*, at the feaſt of Whitſunday yearly, in name of blench-farm, if required allenarly.

After the *reddendo*, fully inſert theſe words following: *For all other burden, exaction, queſtion, demand, or ſecular ſervice which may be any ways juſtly asked or required by whatſoever perſon or perſons, forth of the ſaid lands, earldom, lordſhips, baronies and others* reſpective *above written, with the pertinents; and that the ſaid charter be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs.* Given at

Having now put a period to this ſignature, (but briefly as to lands and *reddendo*) I cannot, without doing injuſtice, omit one point more that occurs to me in this *reddendo*, as to the abbacy, or other church lands in this ſignature, *viz.* That albeit by act of parliament, if two years run together, and *multo magis*, when, by the very feu, it is declared, that if two terms run in the third, and the like, the feu-duty not paid, the feu ſhall fall; yet by this ſignature, and former charters and conveyances, under the great ſeal, theſe irritancies are diſpenſed with, and expreſly declared, that (notwithſtanding of any ſuch contravention, *ob non ſalutam canonem*) the vaſſal may poſſeſs, only the King, by his officers, may poind the ground for the feu-duty. *And next*, I obſerve, that as ſome of the lands, which pay but a ſmall feu-duty, are only liable for the duplication at the entry of the heir; ſo, in other lands that pay a great feu-duty, what betwixt the ſimple feu-duty and great cuſtoms and carriages, the uſual duplication, at the entry, is ſtented or taxed to a far leſſer ſum, which ſhould make all men love ſovereignty; for where that is, royal favour is always lodged, and extended to ſubjects and deſerving perſons, as this gentleman's grandfather was.

In the *next* place, I ingenuouſly declare I would not have ſet down the *reddendo*, being out of my road as to ſtile, ſeeing all charters bear the ſame; but the truth is, ſome writers are

ſtrangers to the form of chancellary; and one now dead, was clerk to a ſervice, and therein retoured the brief *quoad* the boll, (which were many, and even abbot lands too) but forgot the converſion at the ſix ſhillings and eight pence the boll of bear, *&c.* and ſo forth as to the other grains, and as to the cuſtoms and ſervices alſo converted, but omitted: and this being retoured, precept under the quarter ſeal thereupon directed, and ſaſine given by the ſheriff accordingly, upon the gentleman's obligation to relieve him at the exchequer's hands, when the reſponde came in play, and the ſheriff, who had given ſaſine, to fit his exchequer according to the *capiendo ſecuritatem* in the precept, the charge drew deep, and the honeſt gentleman concerned, forced to make application to the Lords of the treaſury, and repreſent the writer's error, omitting the converſion; and they moſt juſtly ordained the prices in the *reddendo* to be only taken, what retoured to, as to the bolls and reſponde made thereupon, being *per errorem*: ſo that all clerks to ſervices, when they have to do with kirk lands eſpecially, ſhould be circumſpect as to converſions, when they ſhould take place, and become the rule, as more fully appears in my laſt part of the work, treating upon ſervices. And at times, by the *reddendo*, the vaſſal is bound, not only to pay victual, mart, wedders, kids, loads of peats, turfs, carriages, and the like, (which may be converted or not in money, yet ſtill cleared by their *reddendo*) but alſo is bound to pay a ſilver duty; and in the *reddendo*, as to the entry of the heir, it only bears, *et duplicando dictam feudefirmam pecuniariam primo anno introitus cujuſlibet hæredis*, and ſo clears, that the money or ſilver duty is only to be doubled, and not the victual; and in this I have ſeen ſome err in ſervices, in only ſaying *duplicando dictam feude firmam*, without adding *pecuniariam*, and ſo the vaſſal wronged; whereas if men advert to the *reddendo*, and make it their rule, without addition or diminution, they neither wrong the ſuperior nor vaſſal. And ſo much by way of animadverſion in ſuch caſes.

SIGNATURE *of Reſignation of the Eſtate of* S. *in favours of* A. *Lady* S. *and of* F. *Lord* G. *her Huſband in Liferent, and of* F. *Maſter of* S. *their eldeſt Son in Fee, and of the Heirs-Male of his Body; which failing, of the other Heirs-Male and of Tailzie after ſpecified; and contains many good and ſingular Clauſes, and one touching Religion, and that any who alters or changes, ſhall* ipſo facto *amit and tine the Right of Succeſſion; and next in this, contrary to other Tailzies, failing of the eldeſt Son and Heirs-Male of his Body, it deſcends downward, and gradually upon all the Brethren and Heirs-Male of their Bodies; and then, and not till then, reverts to, and deſcends upon the eldeſt Female of the eldeſt Son, and ſo downward upon the Females of all the Sons or Brethren (with a Preference ſtill to the eldeſt without Diviſion, and marrying a Gentleman of the Name of* S. *or who will aſſume the Surname, Arms, and Cogniſance of the Family of* S.) *and the Eſtate holds partly of the King as King, and partly as Prince and Steward of* Scotland, *and have the reſpective* Reddendos *accordingly paid and diſtinguiſhed.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents according to the conſtitution of the exchequer for the time, and then ſay*) ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid ancient kingdom, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his ſucceſſors perpetually confirming,

confirming, likeas his Majeſty, by theſe preſents, with conſent foreſaid, gives, grants and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to his Majeſty's well-beloved couſins, Lady A. S. Lady of S. and to F. Lord G. her huſband, and to the longeſt liver of them two in liferent, and to F. Maſter of S. their eldeſt lawful ſon, and to the heirs-male lawfully to be procreate of his body; which failing, to R. S. their ſecond lawful ſon, and to the heirs-male to be procreate of his body; which failing, to J. S. their third lawful ſon, and to the heirs-male to be procreate of his body; which failing, to A. S. their fourth lawful ſon, and to the heirs-male to be procreate of his body; which failing, to the other heirs-male to be procreate of the ſaid Lady A. S. and F. Lord G. their bodies, and to the heirs-male of their bodies; which failing, to the heirs-female procreate, or to be procreate of their bodies, and to the heirs-male of their bodies; which failing, to the heirs-female to be lawfully procreate of the ſaid F. Maſter of S. his body, and to the heirs-male of their bodies; which failing, to the heirs-female to be procreate of the ſaid R. S. his body, and to the heirs-male of their bodies; which failing, to the heirs-female to be procreate of the ſaid J. S. his body, and to the heirs-male of their bodies; which failing, to the heirs-female to be procreate of the ſaid A. S. his body, and to the heirs-male of their bodies; which failing, to the heirs to be procreate of the ſaid Lady A. S. her body in any other marriage, and to the heirs of their bodies; which failing, to the heirs-female to be procreate of the heirs-female their own bodies (the eldeſt of all the heirs-female, in all the caſes aforeſaid, ſucceeding without diviſion;) which failing, to any perſon or perſons which the ſaid Lady A. S. and F. Lord of G. ſhall nominate and appoint, by any writ under their hands, at any time during their conjunct lifetimes allenarly; which failing, to the ſaid Lady A. S. her heirs and aſſignees whatſoever in fee, heritably and irredeemably, (with and under the reſervations, proviſions, conditions and declarations under written, and with the burden thereof, and no otherways,) *All and haill* the lands, baronies, and others particularly and generally after ſpecified, *viz. All and haill* the lands and barony of S. with the pertinents, comprehending all and haill the lands of Caſtle S. with the park, caſtle and loch thereof, called L. *(here the other lands, teinds, patronages, and others, were inſerted, and then)* all united, erected, annexed, created, and incorporated in a haill and free barony, called the barony of S. and a ſaſine to be taken at the manor-place of C. S. or upon the ground of any other part of the ſaid lands, ordained to ſtand good, valid, and be ſufficient for the haill other lands, barony, and others above written, together with all and ſundry other lands, baronies, churches, teinds, patronages, mills, woods, foreſts, fiſhings, offices, and others whatſoever, which pertained, or fell, accreſced or belonged to umquhile R. Lord S. of G. or F. Lord S. at any time during their lifetimes, of whatſoever name, title, meith or deſignation they be of, and wherever they ly, within or without the ſaid kingdom of Scotland, with the ſtile, honour, order and dignity of Lord S. together alſo with all other honours, titles, dignities, pre-eminencies, privileges, liberties and immunities pertaining thereto, with the teind-ſheaves and other teinds, as well great as ſmall, parſonage and vi-

carage of the ſaid lands and others above written, with the reverſions thereof, together with all right, title, intereſt, claim of right, property and poſſeſſion, which his Majeſty, or his moſt noble progenitors, had, have, or any ways may have, claim or pretend thereto: *Reſerving* always liberty to the ſaid F. Lord G. and Lady A. S. during their conjunct lifetimes, and to the ſaid F. Lord G. if he ſurvive, to wadſet and diſpone, heritably, any ground that ſhall happen to be drained in the loch of C. S. *alias* Lochquhinnoch, to the children of the ſaid F. Lord G. procreate, or to be procreate: *As alſo*, reſerving to the ſaid F. Lord G. and Lady A. S. during their conjunct lifetimes, the liferent right of the ſaid haill lands, baronies, teinds, and others above ſpecified: *And ſicklike*, reſerving to the ſaid Lady A. S. if ſhe ſurvive, the liferent right of the juſt and equal half of ſo much of the ſaid lands, baronies, and others above mentioned, as ſhall pertain to them, or be in their poſſeſſion the time of the deceaſe of the ſaid F. Lord G. after deduction of the annualrents of the juſt and lawful debts due by them and their predeceſſors, or preceding the date of theſe preſents, or by virtue of the reſervations after mentioned: *And likeways* reſerving full power and liberty to the ſaid F. Lord G. and Lady A. S. in conjunct fee, or to any of them who ſhall ſurvive, to ſell, annalzie, wadſet, and diſpone any part of the lands aforeſaid, for ſatisfying the debts at preſent reſting by them, or their predeceſſors, to any or all of their creditors, and which venditions, diſpoſitions, or impignorations, ſhall be as valid and ſufficient to the receivers, for the end foreſaid, as if this preſent right and infeftment had never been made or granted in favours of the ſaid heirs of tailzie. *And in like manner*, reſerving power and liberty to the ſaid F. Lord G. and Lady A. S. during their conjunct lifetimes (notwithſtanding of the fee granted to the ſaid F. Maſter of S. and the other heirs of tailzie, as ſaid is) to contract debts for proviſion of children, to the extent of ſuch portions and proviſions as they ſhall judge neceſſary, not exceeding —— thouſand merks Scots money, and to grant perſonal obligations or infeftments on the ſaid lands, and others above ſpecified, for the ſaid debts and proviſions, with the burden thereof, and of all other debts already contracted, and of all obligations or deeds, to which they, or either of them, are obliged, before the date of theſe preſents granted, and which the ſaid F. Maſter of S. and their other heirs of tailzie aforeſaid, ſhall be holden aſtricted and obliged to ſatisfy, fulfil and perform, in the ſame way and manner as if they ſucceeded to them, or either of them, in the lands and others above ſpecified, and as if they were ſerved and retoured heirs to them, or either of them, therein. *And farther*, it is expreſly provided and declared, That it ſhall not be lawful to the ſaid F. Maſter of S. and to the other heirs of tailzie aforeſaid, to ſell, annalzie and diſpone the lands and others foreſaid, or any part thereof, heritably and irredeemably, or under reverſion, one or more, or to grant infeftments of annualrent, or annuities forth thereof, or to give out the ſame in tack or aſſedation, with diminution of the true avail or rental, that the ſame paid before theſe aſſedations, nor to contract debt, or to do or commit any other facts, (except for payment and ſatisfaction of ſuch debts which affect the family at his or their entry to the ſaid lands) whereby, according to the laws and

cuſtom

cuſtom of the kingdom, the ſame may be evicted, appriſed or adjudged from them; neither ſhall it be lawful to them, or to the ſaid Lady A. S. or F. Lord G. to break, innovate, or infringe the ſaid tailzie, in the courſe of ſucceſſion above written, in prejudice of the heirs thereof above ſpecified; and if they, or any of the ſaid heirs of tailzie, ſhall do in the contrary in any part of the premiſſes, not only the tailzies made ſhall be null and void in themſelves, and not at all to infer any tie and obligation, action or execution, perſonal or real, againſt the next heir of tailzie, or the lands and others above written, but alſo the perſons ſo doing in the contrary, and the heirs of tailzie of their bodies, ſhall *ipſo facto*, forfeit, amit and tine all right, title, and intereſt which they have, or can pretend to the ſaid lands and others above mentioned, and belong, deſcend and pertain to the next heir of tailzie appointed to ſucceed, the ſame way and manner as if the contraveners, and heirs of their bodies, had never been *in rerum natura*; and it ſhall be lawful to the next heir of tailzie to put and eſtabliſh the right of the ſaid lands and others foreſaid, in his own perſon, by ſervice and retour, to the perſon immediately preceding the contravener, or by way of declarator, adjudication, or any other manner of way, conſonant with the laws of the kingdom, and ſhall be no ways liable to any debts or deeds of the contravener, which ſhall be void and null in themſelves, and the ſaid lands, and others foreſaid, ſhall be free and exonered and liberated of the ſame. And notwithſtanding the prohibitive clauſe aforeſaid, and clauſe irritant above written, it is expreſly provided and declared, That it ſhall be leiſome and lawful to the ſaid F. Maſter of S. and to his heirs-male and of tailzie above ſpecified, to grant competent liferent proviſions in favours of their ladies that they ſhall happen to marry, not exceeding the ſum of —— merks Scots money yearly, in full contentation and ſatisfaction to them of all right of terce that they may acclaim out of the ſaid eſtate: *As alſo*, by theſe preſents, it is provided, That it ſhall be leiſome and lawful to the ſaid F. Maſter of S. and to the ſaid heirs of tailzie, to provide their children, beſides the heir, to competent proviſions, not exceeding the ſum of —— merks Scots money in any marriage: *And ſicklike*, by theſe preſents, it is provided and declared, That the ſaid F. Maſter of S. and the ſaid other heirs of tailzie, ſhall not permit the lands, and others above written, to be appriſed or adjudged for any debts or proviſion of children, which ſhall happen to be reſting at their deceaſe, but ſhall be holden and obliged to ſatisfy the ſaid debts and portions out of the profits and duties of the ſaid lands; and if it ſhall happen any appriſing or adjudication to be led and deduced for the ſame, then, and in that caſe, the ſaid F. Maſter of S. and his foreſaids, ſhall be holden and obliged to redeem, looſe, and out-quit the ſame in due time, at leaſt within year and day before the expiration of the legal; and if they be negligent, it ſhall be lawful to the next heir of tailzie to impede and interrupt the running or expiration of the legal, and to redeem the ſame, and he or they, for their ſaid neglect, ſhall amit and tine the right of the lands above ſpecified, and the ſame ſhall deſcend upon, and pertain to the next heir of tailzie whoſe it is to ſucceed, and who interrupts and interpels the running of the ſaid adjudication and appriſing.

Moreover,

Moreover, it is expreſly provided and conditioned, That the ſaid F. Maſter of S. and his foreſaids, ſhall timeouſly ſatisfy and pay the feu-duties, blench-duties, and other duties *reſpectivè* due to the ſuperiors of the ſaid lands, and others foreſaid, and not to ſuffer the ſame to fall in the hands of the ſuperiors, or be evicted for not timeous payment thereof; and it ſhall be lawful to, and in the power of the next heir of tailzie to ſatisfy the ſaid feu-duties, blench-duties, and other duties, for impeding the courſe of the ſaid eviction, and that he ſhall have recourſe againſt the fiar for the time, and the ſaid lands, for payment thereof. *And farther*, it is provided and declared, That the heirs of the ſaid F. Maſter of S. ſhall not ly out unentered in the ſaid lands, and others foreſaid, when it ſhall happen them to ſucceed thereto, but ſhall obtain themſelves timeouſly entered and infeft, for interrupting and impeding the courſe of non-entry. *As alſo*, it is provided and declared, That if any of the heirs-male or female aforeſaid, whoſe it is to ſucceed to the ſaid lands, and others above written, ſhall aſſume or betake themſelves to religious orders, and enter themſelves therein, and ſhall not continue ſecular perſons, that in that caſe, and from that time, or thenceforth, they ſhall amit and tine the benefit of the ſaid tailzie and ſucceſſion, and the ſame ſhall appertain and belong to the next heir of tailzie, to whom, and in whoſe favours the perſon entering in religious orders, ſhall be holden to diſpone and reſign the ſaid lands, and the ſame, from that time, ſhall be redeemable by the next heir of tailzie from the ſaid perſon entering in religious orders, by payment of ten merks Scots money: *And likeways*, it is expreſly provided and declared, That if the lands, and others foreſaid, ſhall fall to, and deſcend upon the heirs-female, that, in that caſe, the eldeſt heir-female ſhall ſucceed thereto, in haill, without diviſion, and ſo forth ſucceſſively, and that they, and their deſcendants ſucceeding to the ſaid eſtate, ſhall be holden to aſſume the name and arms of S. and to marry a gentleman of the ſurname of S. or of any other ſurname, who, and the children of the marriage, ſhall be holden and obliged to aſſume, take, and uſe the ſurname of S. and the arms of the houſe of S. and in caſe the heir-female ſo ſucceeding, ſhall happen to be married the time of her ſucceſſion, her huſband ſhall be holden to change his own ſurname, and he, and all the children of the marriage, ſhall be holden to take and aſſume the ſurname of S. and arms of the houſe and family of S. and if they do not take the ſaid ſurname and arms, or if in any time thereafter they deſiſt or leave off ſo to do, the perſon ſo doing, or coming in the contrary, ſhall *ipſo facto*, loſe and tine the right, and ſhall be obnoxious and liable to all the clauſes irritant and reſolutive, and the ſaid eſtate ſhall deſcend to the next heir of tailzie: *And ſicklike*, by theſe preſents, it is provided and declared, That the huſbands of ſuch heirs-female ſo ſucceeding to the ſaid lands, and others above written, ſhall have no right by the curiality or courteſy of Scotland, to enjoy the liferent right of the ſaid lands, after the deceaſe of their ladies or wives, but the ſaid lands, and others foreſaid, ſhall immediately deſcend upon, and appertain to the next heir of tailzie, according to the order and courſe of ſucceſſion aforeſaid, and that notwithſtanding of any law, cuſtom or conſtitution in the contrary: *Notwithſtanding* it is declared, That it ſhall be

lawful

lawful to the ſaid heirs-female to provide their huſbands to a competent liferent, not exceeding the half of the free eſtate, the annualrents of all the debts firſt deducted. *And in like manner*, it is provided and declared, That the heirs-female, and deſcendants of their bodies, ſhall be holden to obſerve and thoroughly fulfil all the proviſions above mentioned; and in caſe of failure and defect, they ſhall be obnoxious, and liable to all the clauſes irritant above expreſſed, with and under the which proviſions and declarations, theſe preſents are granted and accepted, and no other ways; which lands, baronies, and others above written, with the pertinents, lying and deſigned in manner foreſaid, pertained heritably of before to the ſaid Lady A. S. and F. Lord of G. holden by them of his Majeſty and royal ſucceſſors, as ſuperiors thereof, and were by them, and their lawful procurators in their names, to that effect ſpecially conſtitute, and patent letters contained in, and by virtue of the procuratory of reſignation granted thereanent, dated the —— day of —— 17— years, with all right, title, intereſt and property, purely and ſimply, by ſtaff and baſton, as uſe is, with and under the proviſions and declarations above ſpecified, duly and lawfully reſigned in the hands of the Lords commiſſioners of his Majeſty's exchequer, having his Majeſty's power to receive reſignations, and thereupon to grant new infeftments, at Edinburgh the —— day of —— 17— years, in favours, and for new infeftment thereof, to be made and granted to the ſaid Lady A. S. and F. Lord of G. her huſband, and to the longeſt liver of them two, in liferent, and to the ſaid F. Maſter of S. their eldeſt lawful ſon, and to the heirs-male lawfully to be procreate of his body; which failing, *(all the other heirs of tailzie, in the order foreſaid, are taken in, in the principal ſignature, but omitted here*, brevitatis cauſa, *being but the ſame in the diſpoſitive clauſe; and in the laſt place thereof, follows)* which failing, to the ſaid Lady A. S. her heirs and aſſignees whatſoever, heritably and irredeemably, with and under the reſervations, proviſions, conditions and declarations above mentioned, and with the burden thereof, and no other ways, in due and competent form, as accords, as authentick inſtruments taken thereupon, in the hands of —— notary-publick, in themſelves more fully proport: *To be holden*, and for to hold all and ſundry the ſaid lands of C. *&c.* with the advocation, donation, and right of patronage of the church of G. of the provoſtry and prebendary of the collegiate kirk of S. and of the other churches and chaplainries above written, with the pertinents, all now erected and incorporated, as ſaid is, of his Majeſty for himſelf, and as prince and ſteward of Scotland, in free blench, free barony, fee and heritage for ever: *And ſicklike*, to be holden, and for to hold all and ſundry the ſaid lands of B. *&c.* of his Majeſty, for himſelf, and as prince and ſteward of Scotland, in fee and heritage for ever: *And in like manner*, to be holden, and for to hold all and ſundry the other lands, lordſhips, baronies, offices, and others particularly and generally above ſpecified, lying in manner foreſaid, by the ſaid Lady A. S. and F. Lord of G. and F. Maſter of S. and other heirs of tailzie above written, the ſame way and manner, and as freely in all reſpects as the ſaid Lady A. S. or F. Lord of G. held, or might have holden the ſame at any time bygone, by all rights, meiths and marches of the

the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* mills, multures, *&c.* hawking, hunting, *&c.* woods, fiſhings, *&c.* doves, dove-cots, coals, coal-heughs, cunnings, cunningaries, *&c.* with court-plaint, *&c.* pit and gallows, *&c.* with common paſturage, free iſh and entry, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving yearly for the ſaid lands of C. *&c.* with the ſaid advocation, donation, and right of patronage of the ſaid kirk of G. provoſtry and prebendary of the collegiate church of S. and of the other churches and chaplainries above written, with the pertinents, all united and incorporated in manner foreſaid, to his Majeſty, for himſelf, and as prince and ſteward of Scotland, and his ſucceſſors, the ſum of four pennies of ſilver, with a red roſe at C. S. at the feaſt of St. John the Baptiſt, in name of blench-farm, if it be aſked allenarly: *And ſicklike*, giving yearly the ſaid Lady A. S. F. Lord of G. and other heirs of tailzie above ſpecified, for the ſaid lands of B. *&c.* to his Majeſty, for himſelf, and as prince and ſteward of Scotland, the taxt-ward-duties under written, *viz.* the ſum of 240 merks money foreſaid, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, during the time of the ward and non-entry, or either of them, with the like ſum for the relief thereof; and the ſum of 1000 merks money foreſaid, for the marriage of each heir-male, whoſe marriage ſhall happen to fall; to which ſums allenarly, his Majeſty's deareſt brother King Charles the ſecond, of every glorious memory, for himſelf, and as prince and ſteward of Scotland, and his ſucceſſors, princes and ſtewards thereof, with advice and conſent of the commiſſioners of his Majeſty's treaſury and exchequer, taxed the ſaid ward, relief, non-entry and marriage of the ſaid lands in all time coming; and for the haill other lands, offices, juriſdictions, and others, generally above expreſſed, the feu and blench-duties in uſe and wont to be paid, and that for all other burden, exaction, *&c.* And that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

Note, I have ſeen many great tailzies done by perſons of the greateſt quality in the kingdom, and of various natures, very fine, both as to the ſubſtitution and conditions thereof; but to ſet all, or many of theſe down, were to appear prolix and tedious; and therefore I confine myſelf to theſe already placed: And he that caſts his eyes upon them (being a formal and bred penman, with the advice of lawyers) can hardly err in the draught of any tailzie, taking alongſt the genuine ſenſe and true meaning and deſign of the party concerned, all ſuch being voluntary, and as parties pleaſe conceive, for the being, perpetuity, and continuance of their families.

I have alſo ſeen this Earl of Roxburgh's infeftment, but not the old tailzie made by his great grandfather, to which (failing of perſons particularly named) it has relation: The infeftment is full and neat at will, and contains old and new erections, all manner of holdings, and like *reddendos*; and ſome of the feu-lands pay a duplication of the feu-duty at the entry of the heir; others, the feu-duty being great, but a certain ſmall ſum at the entry, in place of a duplication; other lands hold of the king as king, and notwithſtanding few, yet all irritancies, in caſe of not payment by the ſpace of two years, or two terms running in the third, or the like, are diſpenſed with and diſcharged, and only power reſerved to poind the ground, in caſe the vaſſal fail, to the extent of the double; other lands hold of the king as prince and ſteward, ward, and are taxed, and notwithſtanding the nature of the

the holding, the charter allows the vaſſal to ſell, wadſet, or feu, for payment of the debt, or ſecure creditors therein, without incurring recognition; a juſt and favourable act in kings and princes; for when vaſſals will not, or rather dare not do it, to evite that hazard, the creditors ſecure themſelves *aliunde*, and at a far greater charge. In this infeftment there be many cuſtoms, carriages, and day's darg, or ſhearing, and are moderately converted: ſome of the baronies and old earldom hold blench, for payment of a penny, and caſtle wards thereof, uſed and wont, and other lands for payment of a red roſe; and ſome lands, greens, and cunningaries pay 140 pair cunnings, counting two ſixties to the hundred, and for the furnaces of the ovens of Kelſo, and ſome cuſtoms, to ten pounds; ſo that it ſeems there be many ovens there, and well employed by the abbacy.

In the next place, I have ſeen theſe clauſes in tailzies, *viz.* liferents-eſcheats, guarded againſt by relaxing within year and day after denunciation, by an expreſs proviſion; others not to ly out unentered, others not to ſuffer the feu-duties to be reſting, but punctually paid; others bearing only the heirs, and others the children to bear the ſurname and arms, and ſo (upon the whole matter) as parties and their lawyers and writers pleaſe conceive tailzies (all tending to the ſame point and event, *viz.* a ſecurity for the perpetuity and continuance of the fortune;) only, where not only the heir, but all the children are appointed to aſſume the ſurname, arms and cogniſance of the family, why not ſome diſtinction, by addition in the arms, betwixt the eldeſt, that is, the root, and the younger ſons or brethren?

SIGNATURE *of the Lands and Barony of* K. *comprehending ſeveral Baronies, Sheriffſhip, Regality, Burgh of Barony and Regality, a Gift of Patronages, and Ratification of former and prior Rights thereto, in reſpect of an Hoſpital erected, and Mortification made of* 100 *l. a Year out of the Teinds of the Pariſh, for maintaining of the Poor and Indigent: It alſo contains a new Erection of all in one Barony, a Diſſolution of ſome of the Lands from other Shires and Juriſdictions wherein they ly, and annexed them to the Shire of* K. *whereof this worthy Gentleman is Proprietor; and contains ſeveral other Things, not unworthy of Obſervation, written by a formal Penman, and, no doubt, adviſed by eminent Lawyers.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here the conſents were taken in, whilſt the conſtitution of the exchequer was in a Lord high treaſurer and treaſurer-depute, and thereafter the general clauſe, with conſent of the remanent Lords of his Majeſty's exchequer of the ſaid kingdom, his Majeſty's commiſſioners)* ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, giving, granting, and diſponing, and for his Majeſty and his royal ſucceſſors perpetually confirming, likeas his Majeſty, with conſent foreſaid, by theſe preſents, gives, grants and diſpones, and for his Majeſty and his ſucceſſors, perpetually confirms to his Majeſty's well-beloved Sir W. B. of K. Knight Baronet, and to the heirs-male lawfully procreate, or to be procreate of his body, and to the heirs-male of their bodies; which failing, to the eldeſt daughter or heir-female deſcending of the ſaid heirs-male their bodies *ſucceſſivè*, without diviſion; which failing, *(here I omit the other perſons upon whom the eſtate is entailed, as extraneous to my deſign, and terminates thus)* which failing, to the ſaid Sir W. B. his

neareſt and lawful heirs-male; which all failing, to his heirs and aſſignees whatſoever, heritably and irredeemably; which haill heirs of tailzie above mentioned, as well male as female, ſucceeding in the right of the ſaid lands, barony, and eſtate above written, ſhall be holden and obliged to aſſume and take the ſurname of B. and to bear and carry the name, cogniſance and arms of B. of K. with and under the haill reſervations, conditions, qualifications, burdens, reſtrictions and limitations *reſpectivè* after ſpecified: *All and haill*, the lands and barony of K. or L. under written, comprehending therein the particular towns, lands, baronies, and others after mentioned, *viz. (here ſome lands comprehended, are omitted)* lying within the ſheriffdom of K. together with the heritable office of ſheriffſhip of the ſaid ſheriffdom of K. with all fees, caſualties, immunities, privileges, commodities, profits and duties pertaining and incumbent to the ſaid office, together alſo with the fees, forfeitures, eſcheats and ſervices of free tenants of the ſaid ſheriffdom of K. *(after this ſome acres follow, and then)* all and haill the lands and barony of S. and what therein comprehended, lying within the ſaid ſheriffdom of K. and all and haill the lands and barony of C. with the pertinents, lying within the ſheriffdom of P. and all and haill the lands and barony of K. lying within the ſtewartry of S. and ſheriffdom of P. foreſaid;—(after this there follow ſome lands within the C. of K. and ſheriffdom of F. and after this follow more lands, within the abbacy of D. and ſheriffdom of F. foreſaid)—all lying of old within the regality of D. and now within the regality of A. and all united, erected, created and incorporated in a haill and free barony, called the barony of K. or L.—(and after this ſome more lands followed,)—with the boat upon the loch of L. of old belonging to the commendator and convent of D. commonly called the abbot's boat, *&c.* united and annexed to the ſaid barony of K. or L. which lands and barony of K. *alias* called L. comprehending the particular towns, lands, baronies, burghs of barony, heritable offices, mills, woods, fiſhings, coal-heughs, rights of patronages, teinds, tenandries, and others *reſpectivè* above written, therein united and annexed thereto, with all their pertinents, lying and deſigned in manner above mentioned, pertained heritably of before to the ſaid Sir W. B. holden by him of his Majeſty, and his Majeſty's moſt royal progenitors, as immediate lawful ſuperiors thereof: *As alſo*, the ſaid lands, barony, and others foreſaid, comprehending as ſaid is, pertained likeways heritably of before to P. E. of S. ſon and heir of umquhile J. E. of K. J. Lord B. and R. Maſter of B. his ſon, R. D. of S. and Mr. G. and E. D. children of umquhile Sir W. D. of K. each of them for their own parts, conform to their ſeveral rights thereof, and infeftments of the ſame, and which were by the ſaid Sir W. B. and remanent perſons above named, each of them for their own parts in manner foreſaid, and by their lawful procurators in their names, to that effect ſpecially conſtitute, and patent letters contained in the ſeveral reſpective rights granted by them, duly and lawfully reſigned by ſtaff and baſton, as uſe is, in the hands of his Majeſty's principal treaſurer, treaſurer-depute, and of the remanent Lords of his Majeſty's exchequer, for the time being, his Majeſty's commiſſioners, having his Majeſty's power to receive reſignations, and thereupon to grant new

infeftments,

infeftments, as in the hands of his Majeſty, immediate lawful ſuperior thereof, at —— the —— day of —— 17— years, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid Sir W. B. and to the heirs-male of his own body, procreate, or to be procreate; which failing, to his other heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* foreſaid, and the ſaid Sir W. B. his aſſignees, heritably and irredeemably, in ſuch due and competent form as accords; reſerving always to D. M. H. ſpouſe to the ſaid Sir W. B. her liferent of the manor-place of K. already built and edified, or to be edified by the ſaid Sir W. B. with houſes, biggings, yards and orchards thereof, and of a yearly free annualrent or annuity of 4000 merks Scots money yearly, to be uplifted and taken out of the ſaid lands and barony of K. or L. with the pertinents, or any part thereof, conform to the letters obligatory of proviſion, containing therein precept of ſeiſin granted by the ſaid Sir W. B. to her thereupon, dated the —— day of —— 17— years, and infeftment following or to follow on the ſame; which jointures and annualrent, infeftments of the ſaid manor-place, and annualrent or annuity provided to the ſaid D. M. H. in manner above written, his Majeſty, with advice and conſent foreſaid, by theſe preſents, for him and his royal ſucceſſors, ratifies and approves, and perpetually confirms, in all and ſundry heads, articles and clauſes thereof, diſpenſing with the generality of the ſame; as alſo with this proviſion and declaration always, likeas, by theſe preſents, it is ſpecially provided and declared, that all the ſaid heirs of tailzie and proviſion above written, as well male as female, ſucceeding to the ſaid lands, barony and eſtate above mentioned, ſhall be holden aſtricted and obliged, likeas, by the acceptation of theſe preſents, they bind and oblige themſelves, in all time coming, to aſſume and take the ſurname of B. and to uſe and bear the name, arms and cognizance of B. of K. and no other name, arms or cognizance, after the ſaid ſucceſſion; and likewiſe the ſaid daughters or heirs-female ſucceeding to the ſaid eſtate, by virtue of the ſaid tailzie, if they be not married the time of the ſaid ſucceſſion, ſhall be holden aſtricted and obliged, and by the acceptation of theſe preſents, bind and oblige them to marry to a gentleman of the ſurname of B. or who ſhall aſſume the ſaid ſurname, and who, and their heirs, ſhall bear and carry the ſaid ſurname and arms of B. of K. and in like manner, in caſe it ſhall happen the ſaid daughters or heirs-female ſucceeding to the ſaid eſtate, to be married the time of their ſucceſſion, then and in that caſe, the ſaid daughters or heirs-female, and their heirs of the ſaid marriages, ſhall alſo be bound and obliged, and, by the acceptation of theſe preſents, bind and oblige themſelves, to bear and carry the name and cognizance of B. of K. in all time after their ſaid ſucceſſion in manner foreſaid, in which if they fail, the perſon deficient and contravening, ſhall forfeit, amit and tine his right of ſucceeding to the ſaid lands and eſtate, and the ſame ſhall devolve, fall and belong to the next and immediate heir of tailzie exiſting for the time, who ſhall have the right of ſucceeding thereto, by declarator, adjudication, ſervice, or any other manner of way, as accords, or in the like caſes uſual, in manner above written; as alſo, by theſe preſents, it is provided, that in [illegible] caſe, that the ſaid heirs-male of the ſaid D. A. B. her body, procreate or to be procreate betwixt her and the ſaid Sir T. H. her huſband, or

any of the heirs of tailzie and proviſion *reſpectivè* above mentioned, ſucceeding, or that ſhall have right of ſucceeding to the ſaid lands, barony, and eſtate, by virtue of the ſaid tailzie, ſhall alſo ſucceed to the like other eſtate, which may oblige them to bear and carry any other name and arms, than the ſaid name and arms of B. of K. and that therefore do not accept the benefit of this preſent tailzie, nor do not take, aſſume, bear and carry the ſaid name and arms of B. of K. in manner foreſaid, within the ſpace of year and day after deceaſe of the ſaid Sir W. B. or any of the heirs-male of his body, or of any other the neareſt and immediate preceding heir of the ſaid lands and eſtate of K. to whom they may ſucceed; that then, and in that caſe, the ſaid heir ſo not accepting the benefit of this preſent tailzie, ſhall alſo forfeit, tine, and amit the right of ſucceeding to the ſaid lands and eſtate, and the ſame ſhall devolve, fall and pertain to the ſecond, or any other neareſt and immediate younger ſon for the time exiſting, who ſhall accept the ſame benefit of the ſaid tailzie, which failing, to the other next and immediate heir of tailzie for the time exiſting, who ſhall have right of ſucceeding to the ſame by declarator, adjudication, ſervice, or any other manner of way, as accords, and in ſuch caſes uſual in manner above mentioned; and ſicklike, with this declaration and proviſion always, likeas by theſe preſents, it is provided and declared, that it ſhall be no ways leiſome or lawful to any of the heirs of tailzie or proviſion above written, ſucceeding to the ſaid lands and eſtate, by virtue of the ſaid tailzie and ſubſtitution, or any of them, except to the heirs-male of the body of the ſaid Sir W. B. and to the heirs-male lineally deſcended of their bodies allenarly, to ſell, annalzie, diſpone or dilapidate the ſaid lands and eſtate, or any part thereof, nor to break, innovate or infringe this preſent tailzie, nor to contract debts, nor to commit any other deed or crime civil or criminal, by which the ſaid lands and eſtate may be any ways appriſed, adjudged, evicted, or forfeited from them, or in defraud or prejudice of the ſubſequent heir of tailzie above mentioned *ſucceſſivè*, according to the order and ſubſtitution above written, nor ſhall it be lawful or leiſome to the ſaid heirs of tailzie and proviſion above ſpecified, to permit or tolerate the ſaid lands and eſtate, or any part thereof, to be adjudged, appriſed, or any ways evicted for any debts or deeds contracted or committed by them before their ſucceſſion, or by any of their predeceſſors whom they any ways repreſent, or to which, as their repreſentatives, they may be any ways ſubjected and made liable; all which facts, are, by theſe preſents, not only declared void and null, *ipſo facto*, by way of exception or reply, without declarator, in ſo far as the ſame may burden and affect the ſaid lands and eſtate, but alſo, by theſe preſents, it is provided and declared, that the ſaid heirs of tailzie, who ſhall contravene and incur the ſaid clauſes irritant, or any of them, whether by not aſſuming the name and arms of B. of K. or the ſaid heirs-female not married, and not marrying to a gentleman of the ſaid name, or who ſhall aſſume, bear and carry the ſaid name and arms, or whether married to them and their heirs of the ſaid marriages, by not aſſuming, bearing and carrying the ſaid name and arms, as ſaid is, or the ſaid heirs not accepting of the benefit of this preſent tailzie, within year and day after the deceaſe of the next immediate preceding heir, to whom they may ſucceed in manner *reſpectivè* above mentioned, or who

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ſhall infringe or innovate the ſaid tailzie, or contract debts, or commit any other fact or crime whereby the ſaid lands and eſtate may be any ways evicted or affected in manner above written, or who ſhall ſuffer and permit the ſaid lands and eſtate, or any part thereof to be evicted, adjudged, appriſed, or any way affected for any debts or deeds contracted and committed by them before their ſucceſſion, or by any of their predeceſſors whom they repreſent, and in which they ſhall be ſubjected and made liable, as repreſenting them any manner of way; then, and in either of theſe caſes, the perſon or perſons ſon contravening, as ſaid is, ſhall forfeit, amit and tine their right of ſucceeding to the ſaid lands and eſtate, and all infeftments and pretended rights thereof in their perſons, ſhall thereafter be void and null, *ipſo facto*, by way of exception or reply, without declarator, in manner foreſaid, and the ſame ſhall devolve, fall and belong to the next immediate heir of tailzie, for the time exiſting, who is appointed to ſucceed to the ſaid lands and eſtate, by virtue of the ſaid tailzie and ſubſtitution above ſpecified, and to whom it ſhall be lawful to be ſerved as heirs in ſpecial therein, to them who died laſt infeft before contravention, and to be thereupon retoured and infeft, or otherways to proſecute by declarators, adjudications, or by any other legal diligences, which may formally and legally eſtabliſh the right of the ſaid lands and eſtate in the perſon of themſelves, and of the remanent heirs of tailzie, who are appointed to ſucceed to them in manner above expreſſed, and with and under the reſervations, burdens, conditions, proviſions, limitations, reſtrictions and qualifications *reſpectivè* above mentioned, without any acknowledgment of, or being ſubjected or liable to the debts or deeds of the contraveners, any manner of way, ſo as the ſaid tailzie, according to the intent and meaning thereof, ſhall ſtand inviolable and irrefragable in all time coming; any law, practique, or conſtitution whatſoever, made, or to be made in in the contrary, notwithſtanding: Declaring nevertheleſs, that the ſaid reſtrictions of innovating the tailzie, of contracting debts, or diſponing upon the ſaid eſtate, ſhall no ways extend to the heirs-male of the ſaid Sir W. B. his body, who, and the heirs-male lineally deſcending of their bodies, ſhall have power of uſing the ſaid eſtate, and diſponing thereupon at their own pleaſure; and in like manner, notwithſtanding the limitations and reſtrictions above written, it ſhall be lawful to all the heirs of tailzie and proviſion above mentioned, to burden and affect the ſaid eſtate with ſuch juſt and lawful debts and burdens as ſhall happen to be reſting by the ſaid Sir W. B. the time of his deceaſe, and that ſhall not be ſatisfied and paid by his moveable goods or otherways, as alſo to provide to their huſbands, wives, and children, competent and convenient liferents, portions and proviſions, ſuch as the ſaid eſtate may conveniently bear and allow, and which ſhall be agreed to by two friends, one on the father's ſide, and another on the mother's ſide, the ſaid liferents in favours of the ſaid huſbands and wives, at one and the ſame time, not exceeding the ſum of —— and the ſaid portions and proviſions in favours of the ſaid children, not exceeding the ſum of —— and to grant letters obligatory, infeftments and other ſecurities neceſſary thereupon, and with which the ſaid lands and eſtate ſhall ſtand affected, notwithſtanding the ſaid proviſion and reſtriction: Providing always, likeas by theſe preſents, it is ſpecially provided and declared, that

that the ſaid heirs of tailzie and proviſion above ſpecified, ſucceeding to the ſaid lands and eſtate, ſhall be holden and obliged, and, by the acceptation hereof, bind and oblige them no ways to permit the ſaid lands and eſtate, or any part thereof, to be adjudged or appriſed for the ſaid ſums of money, proviſions, and others above written, with which they have power to burden and affect the ſaid lands and eſtate, as ſaid is, at leaſt, not to permit the legal reverſions of the ſaid appriſings or adjudications to expire, whereby the ſaid tailzie made and intended for preſervation of the ſaid eſtate, may be rendered any ways void and of none effect, at leaſt within the ſpace of one year before expiration of the legal reverſions of the ſaid appriſings or adjudications, according to the time preſcribed by his Majeſty's acts of parliament, or any ſupervenient law to redeem and purge the ſame; and if the ſaid heirs of tailzie, or their foreſaids, ſhall procraſtinate and delay to redeem and purge the ſaid appriſings and adjudications, then and in that caſe, they ſhall not only amit and tine all right of reverſion, or other right competent to them of the law, to the ſaid eſtate, but alſo it ſhall be lawful to, and in the power of the next and immediate heir of tailzie, for the time exiſting, to impede and interpel the expiration of the legal reverſion of the ſaid appriſings or adjudications *reſpectivè*, any time within the ſpace of one year preceding the expiration thereof, or to compone and tranſact for the ſaid appriſings and adjudications, within one year, for his own proper uſe, as ſaid is, the rights thereof being always bought and acquired, with and under the haill reſervations, burdens, conditions, proviſions and limitations of the ſaid tailzie, and that cumulative, and without prejudice of the other clauſes irritant, and of reſtriction above mentioned. And laſtly, by theſe preſents, it is ſpecially provided and declared, that it ſhall be always lawful and free to the ſaid Sir W. B. and in his power at any time, during the days of his lifetime, *etiam in lecto ægretudinis, et in articulo mortis*, to alter, infringe or innovate the ſaid tailzie, ſubſtitution, and order of ſucceſſion therein, as alſo to reſcind and renounce the conditions, proviſions and reſtrictions aforeſaid, or any of them, as he ſhall think and eſteem expedient and convenient, in favours of the ſaid heirs of tailzie and proviſion above written, and that by a writ under his own hand, laſt will, or otherways, upon the which reſervations, burdens, conditions, proviſions, reſtrictions, limitations and qualifications *reſpectivè* particularly above ſpecified, the ſaid tailzie, reſignations, and infeftments are granted and accepted, and no otherways, as authentick inſtruments taken upon the ſaid reſignations *reſpectivè*, in the hands of the ſaid notary-publick, in themſelves more fully is contained; as alſo, giving, granting, and diſponing, and for his Majeſty and ſucceſſors, perpetually confirming, likeas his Majeſty, by theſe preſents, with advice and conſent foreſaid, gives, grants and diſpones, and, for his Majeſty and his royal ſucceſſors, perpetually confirms to the ſaid Sir W. B. and to his heirs-male and of tailzie *reſpectivè* and *ſucceſſivè* aforeſaid, heritably and irredeemably, with and under the haill conditions, proviſions, reſtrictions, limitations and qualifications above expreſſed, all and ſundry the teind-ſheaves or parſonage-teinds, fruits, rents and emoluments of all and haill the pariſh-kirk and pariſh of P. with the pertinents thereof, with the advocation, donation and right of patronage of the ſame, lying within the ſheriffdom of F. which teinds, with the pertinents,

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pertained heritably of before to umquhile W. E. of M. or to umquhile R. E. of M. his ſon, and which, with certain other lands and teinds, were in a court of appriſing, holden within the new ſeſſion houſe of Edinburgh—(here is deduced the meſſenger before whom led, the day, month and year upon which, at whoſe inſtance, and againſt whom, and for what ſums, and date of the allowance, and the ſaid Sir W. B. his right thereto, and date thereof)— and likeways ratifying and approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming, likeas his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for his Majeſty and his ſucceſſors, perpetually confirms in favours of the ſaid Sir W. B. two charters, containing therein precepts of ſeiſin, the one made and granted by umquhile J. archbiſhop of S. and the other by umquhile A. late archbiſhop thereof, with conſent of the dean and chapter of the ſame, to the ſaid Sir W. B. and his foreſaids, with and under the haill conditions, proviſions and reſtrictions of the ſaid tailzie, of all and ſundry the lands of K. *&c.* lying within the barony and lordſhip of B. and regality of S. as alſo of the mill of M. *&c.* lying within the lordſhip and barony of M. and regality foreſaid, to be holden of the ſaid archbiſhops, and their ſucceſſors, archbiſhops of S. in feu-farm, for payment of the feu-farm duties ſpecified in the ſaid reſpective charters, the one dated the —— day of —— 17— years, and the other dated the —— day of —— 17— years: *Item*, another charter containing precept of ſeiſin, granted by the maſters of St. Leonards, to the ſaid Sir W. B. of the lands and barony of K. with the prior's manſe and ward in the town of K. and inſh in L. called S. Inſh, with the fiſh-boats, *&c.* lying within the ſheriffdom of F. to be holden of the ſaid maſters, and their ſucceſſors in office for the time, in feu-farm, for payment of the feu-farm duties and others contained in the ſaid charter, dated the —— day of —— 17— years, with the precepts of ſeiſin contained in the ſaid reſpective charters, and inſtruments of ſeiſin following, or to follow thereupon, in the haill heads, clauſes, conditions, tenors and contents thereof; and his Majeſty wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains, that the ſaid general ratification is and ſhall be of as great force, ſtrength and effect, as if the ſaid charters, precepts of ſeiſin, and inſtruments of ſeiſin following or to follow thereupon, were particularly, and *de verbo in verbum* herein inſert and ingroſſed, and as if this confirmation were granted before taking of ſeiſin of the ſaid lands, and before the deceaſe of the ſaid J. and A. archbiſhops of S.; whereanent, and with all other exceptions or objections that in law may be moved, alledged or propoſed againſt the validity of the ſaid confirmation, his Majeſty, for himſelf and his royal ſucceſſors, with advice and conſent foreſaid, has diſpenſed, and by theſe preſents, diſpenſes for ever: Moreover, his Majeſty conſidering, that the ſaid Sir W. B. and his authors, for ſome hundred years bygone, have been poſſeſſors of the parſonage and vicarage teinds within the pariſh of K. and that his authors were of old inſeft under the great ſeal, in the lands and barony of K. with the advocation, donation and right of patronages of the churches and chaplainries thereof, and ſo undoubted and heritable patrons of the pariſh church of K. howbeit the ſaid right of patronage, for divers years bygone, remain ſlighted and neglected, by reaſon of great troubles and burdens of the ſaid

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eſtate of K. and diviſion of the ſeveral creditors thereof, and that now the ſaid Sir W. B. out of a pious intention, has doted and mortified a piece of land near K. belonging to himſelf in property, upon which he has built, at leaſt intends to build and erect upon his own proper charges, an hoſpital and yard, for keeping and ſuſtaining certain indigent and poor people, and for that effect, ſeriouſly deſirous to convert, beſtow, and confer an hundred pounds money of the ſaid kingdom of Scotland, out of the free teind of the ſaid pariſh of K. yearly, to be uplifted for the uſe of the ſaid hoſpital, as the foundation of the rent thereof, in good example to others, to imitate in charity and help, for ſo good and charitable an act and reſolution, which deſerves all incitement to be thereto contributed; as alſo, his Majeſty conſidering, that his Majeſty's ſheriffdom of K. was altogether a diſtinct ſheriffdom, in which the ſheriffs thereof continually exerced all acts of juriſdiction civil and criminal, and enjoyed all other privileges competent to any other ſheriffs within this kingdom, and that the lands and barony of B. and the lands and barony of K. *&c.* lying within the pariſh of P. and regality of S. and the lands of C. pertain to the ſaid Sir W. B. heritable ſheriff of the ſaid ſheriffdom of K. as well in property as ſuperiority; as alſo, that the lands of C. *&c.* lying within the pariſh of K. and likeways all and ſundry the lands lying in the pariſhes of C. and T. and for the preſent within the ſheriffdoms of F. and P. and that the lands and barony of C. pertaining to the ſaid Sir W. B. lying within the ſheriffdom of P. are remote and at great diſtance from his Majeſty's burghs of C. and P. head burghs of the ſaid ſheriffdoms *reſpectivè*, and very near to the burgh of barony of K. head burgh of the ſheriffdom thereof; and in like manner, conſidering the ſmall extent of the ſaid ſheriffdom of K. for ſupporting and upholding the ſtate and dignity of a diſtinct ſheriffſhip, as the ſame now is, and of old was, and that with what little pains and eaſe it will be to the heritors and inhabitants of the ſaid lands, to anſwer to the courts of the ſaid ſheriffdom, as well for payment of publick burdens, as for other exactions, expeditions, aſſeſſments, taxations, mending of high ways, militia, and others, and would prevent not a little trouble, charges and expences to the ſaid Sir W. B. of K. heritable ſheriff of the ſaid ſheriffdom thereof, and to the inhabitants within the ſaid lands, that his and the ſaid haill foreſaid lands were disjoined from the ſaid ſheriffdoms *reſpectivè*, and thereby liberate from great troubles and inconveniencies, and that the ſame were united and joined to the ſaid ſheriffdom of K. to which they ly ſo contiguous, and even were of no prejudice to the ſheriffs of the ſaid other ſheriffdoms, all the ſaid lands belonging to the ſaid Sir W. B. being erected in regalities. And ſicklike, his Majeſty's right truſty couſin and counſellor, the ſaid J. M. of A. *&c.* ſheriff-principal of the ſaid ſheriffdom of P. as alſo his Majeſty's well-beloved couſins, M. C. of R. and H. and Ch. E. of H. her huſband, heritable ſheriffs of the ſaid ſheriffdom of F. for their intereſts *reſpectivè*, conſented to the ſaid disjunction of the ſaid lands from the ſaid ſheriffdoms, and to the union thereof to his Majeſty's ſheriffdom of K. aforeſaid, in favours of the ſaid Sir W. B. therefore, his Majeſty, for the many good and grateful ſervices done and performed to his Majeſty, and his deceaſed moſt dear brother King Charles II. of bleſſed memory, by the ſaid Sir W. B. and particularly for his ſervices, conſtant adherence

rence to, and ſufferings for their Majeſties the time of their exile, and of his Majeſty's certain knowledge and proper motive, with advice and conſent foreſaid, not only ratifying, approving, and for his Majeſty and his royal ſucceſſors, perpetually confirming, likeas his Majeſty, by theſe preſents, ratifies, approves, and for his Majeſty and his royal ſucceſſors, perpetually confirms the ſaid donation and mortification granted and made by the ſaid Sir W. B. of the ſaid piece of land, with the houſe and yard built or to be built thereupon, for the uſe above mentioned, with all ſuch rules, orders and inſtitutions, which by the ſaid Sir W. B. and his heirs and ſucceſſors, heritable proprietors of K. in any time coming, are made or to be made, appointed and determined; as alſo, gives, grants and diſpones in favours of the ſaid Sir W. B. and of the heirs-male of his body, which failing, of his other heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above mentioned, with and under the haill conditions, proviſions, reſtrictions, limitations and qualifications *reſpectivè* above ſpecified, heritably and irredeemably, all and haill the advocation, donation, and right of patronage of the pariſh church and pariſh of K. with the teind-ſheaves, and other teinds great and ſmall, as well parſonage as vicarage thereof, and that of all crops and years bygone, reſting and due, and in time coming to be intromitted with, collected, in-brought, uſed, bruiked, enjoyed and diſponed upon by the ſaid Sir W. B. and his foreſaids, in all time coming; and ſicklike, all and haill the advocation, donation, and right of patronage of the pariſh-kirk and pariſh of P. and his Majeſty not only diſſolving and diſuniting, likeas his Majeſty, by theſe preſents, with conſent foreſaid, diſſolves and diſunites the ſaid rights of patronages, teinds, parſonage and vicarage above diſponed, from the lordſhip and regality of D. and from his Majeſty's crown and patrimony thereof, and from all other lordſhips, dignities and other benefices to which the ſame were any ways formerly annexed, and annexes and conjoins the ſame to the ſaid lands and barony of K. and decerns and ordains the ſame teinds included with the ſtock never to be ſeparated therefrom for the future, but alſo diſmembers and disjoins the ſaid lands and barony of B. and K. *&c.* (*here the other lands and others concerned in this point are inſert, and then follows*) and remanent lands within the ſaid pariſh of P. and regality of S. and the ſaid lands of C. (*here the other lands concerned in this point are inſert, and then follows*) and all other lands lying within the ſaid pariſhes of C. and T. and likeways the ſaid lands and barony of C. and all their pertinents from the ſaid ſheriffdoms of F. and P. *reſpectivè*, and his Majeſty unites and annexes the ſame to his Majeſty's ſheriffdom of K. aforeſaid, with the burden of the valuation thereof, and liberates and renders the ſaid ſheriffdoms of F. and P. *reſpectivè*, free of the ſame in all time coming, and his Majeſty wills and ordains the heritable proprietors, inhabitants and poſſeſſors of the ſaid lands in all time coming, to anſwer to the head-courts of the ſaid ſheriffdom of K. and in all cauſes as well civil as criminal, to be ſubject and liable to the cognition competent to the ſheriff of the ſheriffdom thereof, and juriſdiction of the ſame, and the ſaid lands to be repute and eſteemed to all intents and effects, as a part of the ſaid ſheriffdom of K. in all time coming, and ſpecially, but prejudice of the ſaid generality, with the burden of all aſſeſſments, taxations, exciſe, and other impoſitions whatſoever, militia and other

exactions and expeditions, and out of the ſame to be collected and ordained, and of all conventions and convocations of the ſaid ſheriffdom, to be appointed by the laws of this his Majeſty's kingdom, or by his Majeſty and his privy council, and in all ſervices, retours, rights, diſpoſitions, charters and infeftments of the ſaid lands, to be deſigned in all time coming, lying within the ſheriffdom of K. and that all denunciations of letters of horning, inhibitions, appriſings, publications of interdictions and executions of other legal diligences againſt the heritable proprietors, poſſeſſors, and inhabitants of the ſaid lands, with all brieves, proclamations, and others, ſhall be uſed and executed at the market-croſs of K. head-burgh of the ſaid ſheriffdom, and to the ſame effect to which the ſaid executions are uſed at the market-croſs of the head-burgh of any other ſheriffdom; and ſicklike, his Majeſty conſidering, that the ſaid lands and barony of K. *alias* called L. comprehending divers other lands and baronies, and others above written united therein, and thereto annexed, lying within the ſaid ſheriffdom of P. and K. *reſpectivè*, of old pertaining to the Earls of M. and now to the ſaid Sir W. B. either in property or ſuperiority, were all of old diſponed and erected, with the privilege of free regality, free chapel and chancellary, as a part of the lordſhip and regality of A. and his Majeſty being willing the former regality and juriſdiction thereof be no ways ſuppreſſed, but that, as a farther ſign and teſtimony of his Majeſty's royal benignity, to renew and redintegrate the ſame in favours of the ſaid Sir W. B. and his foreſaids, therefore, his Majeſty, for the cauſes above mentioned, of his kingly authority and regal power, with advice and conſent foreſaid, has diſſolved, diſmembered and disjoined, and by theſe preſents, diſſolves, diſmembers, and disjoins, not only all and ſundry the ſaid lands and barony of K. or L. comprehending the ſeveral lands and others above written, therein united, and thereunto annexed, lying formerly within the ſaid regality of A. and the ſaid ſheriffdoms of F. P. and K. *reſpectivè*, and of old pertaining to the ſaid Earls of M. but alſo the haill remanent lands and others above ſpecified, now by theſe preſents annexed to the ſaid ſheriffdom of K. and belonging to the ſaid Sir W. B. either in property or ſuperiority, holden by him immediately of his Majeſty and his royal ſucceſſors, with all their parts, pendicles and pertinents, from the lordſhip, barony and regality of A. and juriſdictions thereof, and all others to which they, or any part thereof, were formerly any ways united and annexed, and, of new, unites, erects, creates and incorporates the ſame, in a haill and free barony and regality, with chapel and chancellary, to be called now and in all time coming, the barony and regality of K. with full right, privilege and juriſdiction of free regality, chapel and chancellary, and likeways of juſticiary within the haill foreſaid bounds of the ſaid regality; and his Majeſty, with advice and conſent foreſaid, by theſe preſents, makes and conſtitutes the ſaid Sir W. B. and his heirs-male and of tailzie, and aſſignees above ſpecified, with and under the haill conditions, reſervations, reſtrictions, limitations and qualifications *reſpectivè* above mentioned, heritable baillies of the ſaid regality, and by theſe preſents, gives, grants and diſpones to them the ſaid regality and juriſdiction, with free chapel and chancellary, right and privilege of juſticiary, with all and ſundry privileges, immunities, caſualties, commodities, profits and duties whatſoever, pertaining and belonging thereto,

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within the haill bounds of the ſaid regality, to be bruiked, poſſeſſed, uſed, exerced and enjoyed, with all honours, dignities, emoluments and liberties whatſoever, ſick-like, and as freely in all reſpects, as any other Lord of regality within this his Majeſty's kingdom of Scotland, uſes, poſſeſſes and exerces, or may uſe and exerce, by virtue of their charters, rights and infeftments thereof, laws or conſtitutions of his ſaid kingdom; and his Majeſty, by theſe preſents, gives, grants and commits his Majeſty's power and commiſſion to the ſaid Sir W. B. and his foreſaids, by themſelves or their baillies, and deputes to be nominated and elected by them, for whom they ſhall be anſwerable, to ſit, affix, affirm, hold, and, how oft need beis, continue courts of regality, within the ſaid bounds of the ſaid regality, or any part thereof, for adminiſtration of juſtice, and for that effect, to elect, create, and cauſe be ſworn baillies, clerks, ſerjeants, officers, dempſters, and all other members neceſſary for holding the ſaid courts, ſuits to call, abſents to fine and amerciate, and to have and hold a free chapel and chancellary therein, as alſo to emit and direct all citations, precepts, brieves, edicts, or proclamations and others in their own names, as heritable baillies of the ſaid regality, to any perſon or perſons within the ſaid regality, for ſerving them heirs to their predeceſſors, or any other manner of way for adminiſtration of juſtice in all cauſes, as well civil as criminal, which ſhall happen to be intented and purſued before them, and with power to the ſaid Sir W. B. and his foreſaids, and to their baillies, deputes, ſubſtitutes and clerk, and to no other perſons authoriſed, or by virtue of precepts directed out of his Majeſty's chancellary upon the ſaid ſervices and retours, to grant infeftments and ſeiſins; and his Majeſty, by theſe preſents, commands and requires the directors of his ſaid chancellary, preſent and future, and their deputes, to direct all brieves and precepts that are to be directed to any perſon to be ſerved within the bounds of the ſaid regality, and to be infeft in all the lands within the ſame, to the ſaid Sir W. B. and his foreſaids, and to their baillies and deputes, to be anſwered and determined by them, and to none elſe, and by the verdict of a true and faithful inqueſt, to be called, elected and choſen by them in all time coming, and with power to them to cite and convene before them, all and ſundry delinquents and tranſgreſſors for theft, bluids, or brawling and ſcolding within the ſaid regality, and to incarcerate, fine, adjudge and convene them as accords, and the amerciaments, forfeitures, eſcheats, fines and bloodwits of the ſaid tranſgreſſors and delinquents, to uplift and apply the ſame to their own proper uſe, and in like manner, to repledge all and whatſoever perſons dwelling and reſiding within the ſaid regality, from all other courts and juriſdictions to which they ſhall be cited and convened, and as judges, to ſit, proceed and adminiſtrate juſtice in all cauſes whatſoever, as well civil as criminal, which ſhall occur in any time coming, within the bounds of the ſaid regality, whether concerning life or limb, theft, depredations, manſlaughter, murders, ſorcery, poiſoning, inceſt, adultery, and other crimes of whatſoever nature, leſe-majeſty allenarly excepted, and for that effect, with power to them of citing and convening before them the committers of the ſaid crimes, and purſuers thereof, witneſſes and other probations to be led for proving of the ſame, and likeways all the perſons aſſizers, to paſs upon the aſſize of the ſaid criminaliſts and tranſgreſſors, how oft ſoever the

ſame ſhall occur, and to give forth and pronounce ſentences and judgments therein, and to cauſe the ſame be put in execution, conform to the laws of his Majeſty's kingdom aforeſaid, and to intromit with, uplift, aſſign and diſpone upon the eſcheats, liferents and forfeitures of all perſons, who within the ſaid regality ſhall fall under the ſaid crimes, or any of them, or denounced rebels, convicted or forfeited, or that ſhall fall any other manner of way whatſoever, and his Majeſty gives, grants and diſpones the ſame, with all right his Majeſty had, has, or can pretend thereto, in favours of the ſaid Sir W. B. and his foreſaids, with full power to them and their foreſaids, to arreſt, poind, and convene therefore, and, if need beis, to proſecute declarators thereupon as accords, or otherways to uſe and diſpone on the ſame at their own pleaſure, and to adminiſtrate juſtice in all cauſes civil betwixt party and party within the ſaid regality, to whatſoever they or any of them ſhall be judges competent in point of adminiſtration, decreets and ſentences therenpon to give forth and pronounce, and the ſame to due execution cauſe be put, and to emit, direct, and give forth precepts of poinding and arreſtment, captions, and others proper and expedient, in their own names, and to their own officers and ſerjeants, and accordingly to cauſe arreſt, poind and diſtrenzie by virtue thereof, and to convene, cite and puniſh according to law, all deforcers of their officers in the execution of their offices, and the breakers of their ſaid arreſtments, and to perform all other things concerning the ſame, or any others which occur within the ſaid regality, as freely as any other lord or baillie of regality within the ſaid kingdom of Scotland, by virtue of their own rights and infeftments, laws and practique of the ſaid kingdom, in manner above ſpecified, have done and performed, or may perform; and his Majeſty, by theſe preſents, ordains the burgh of barony of K. to be the principal and head-burgh of the ſaid regality, in place of the burgh of regality of A. in all time coming, and for that effect, and for increaſe of policy and commerce within his ſaid Majeſty's kingdom, and for the better accommodation of his Majeſty's ſubjects, as well natives as foreigners and ſtrangers, his Majeſty of his ſaid kingly authority and regal power, with advice and conſent foreſaid, has made, conſtituted, created and erected, and by theſe preſents, makes, conſtitutes, creates and erects, in favours of the ſaid Sir W. B. and his foreſaids, the ſaid burgh of barony of K. haill bounds and territories thereof, in a free burgh of regality, to be called now and in all time coming, the burgh of regality of K. and ordains all proclamations, denunciations, and executions of letters of horning, inhibitions, appriſings, publications of interdictions and of brieves, and others within the ſaid regality, to be made, uſed and executed at the market-croſs of the ſaid regality, and that all ſervices of brieves, regiſtrations of letters of horning and inhibitions, publications, and interdictions, and others within the ſaid regality, be deduced and performed at the ſaid burgh of K. as the principal and head-burgh of the ſaid regality in all time coming: And in like manner, his Majeſty has given, granted, and committed, and by theſe preſents, gives, grants, and commits full power and warrant to the ſaid Sir W. B. and his foreſaids, to elect and chuſe yearly magiſtrates, clerks, ſerjeants, officers, and all other members neceſſary for ruling and governing of the ſaid burgh, and how oft is expedient, according to the uſual form obſerved in the

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like burghs of regality, and likeways to make, create, and cauſe be ſworn free burgeſſes within the ſame, with full and free liberty, power and licence to the ſaid burgeſſes, inhabitants and citizens of the ſaid burgh, preſent and to come, of ſelling, buying and merchandizing yearly, and in fairs and markets, wine and wax, ſalt, cloth of whatſoever kind or colour, broad and narrow, and all other merchandize and commodities whatſoever, and to have and hold therein maſons, wrights, ſmiths, bowers, baxters, weavers, ſadlers, ſhoemakers, ſlaters, tailors, litſters, tanners, ſievewrights, coupers, webſters, fiſhers, fleſhers, painters, pewterers, upholſterers and all other kind of mechanicks and workmen whatſoever, and of being packers, pilers, and all other kind and policy, art of merchandize, mechanick arts, and whatſoever workmanſhip belonging to a burgh of regality; and ſicklike, his Majeſty, with advice and conſent foreſaid, by theſe preſents, gives and grants to the ſaid Sir W. B. and his foreſaids, two new yearly fairs, yearly to be holden and kept at the ſaid burgh of regality of K. bounds and territories thereof, the — day of —— being Tueſday, and the other the — day of —— being Tueſday, and each of them to continue for the ſpace of — days yearly, with tolls, cuſtoms, privileges and immunities thereof, beſides, and over and above, a weekly market, and two former new yearly fairs, yearly to be held therein; which weekly market and former fairs, with the tolls, cuſtoms and privileges, and pertinents thereof, his Majeſty, by theſe preſents, ratifies and confirms in favours of the ſaid Sir W. B. and his foreſaids, in all time coming, and with all other liberties, privileges, incorporations and immunities whatſoever, to uſe and exerce by the ſaid Sir W. B. and his foreſaids, as freely and fully as any other burgh of regality within his Majeſty's kingdom aforeſaid, were in uſe, or may uſe and enjoy at any time bygone, preſent or to come. *Moreover*, his Majeſty, for the cauſes above written, of his Majeſty's certain knowledge and proper motive, with advice and conſent foreſaid, has of new given, granted and diſponed, and for his Majeſty and his royal ſucceſſors perpetually confirmed, likeas his Majeſty, by theſe preſents, gives, grants, and diſpones, and for his Majeſty and his royal ſucceſſors, perpetually confirms to the ſaid Sir W. B. and to the heirs-male of his body, which failing, to his other heirs of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above ſpecified, with and under the haill conditions, proviſions, reſtrictions, limitations and qualifications *reſpectivè* above mentioned, heritably and irredeemably, *All and ſundry* the haill foreſaid towns, lands, baronies, burghs of barony and regality, weekly market, yearly fairs, tolls and cuſtoms thereof, heritable office of ſheriffſhip, privileges and pertinents of the ſame above written, mills, woods, loch, fiſhing, coal-heughs, rights of patronages, tenements, and others particularly and generally above mentioned, proceeding as well upon the ſaid Sir W. B. his own reſignation, and reſignations of the other ſeveral perſons *reſpectivè* above named, and upon the appriſing above expreſſed, to which the ſaid Sir W. B. has right, as upon the rights of patronages and teinds above rehearſed, by theſe preſents, of new granted and diſponed by his Majeſty to the ſaid Sir W. B. all lying, deſigned, and annexed in manner above expreſſed, which in this his Majeſty's ſignature and charter foreſaid to follow thereupon, are holden as repeated, and whereanent his Majeſty diſpenſes for ever, together with

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all right, title, intereſt claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which his Majeſty, his predeceſſors or ſucceſſors, had, have, or any ways may have, claim, or pretend to the ſame, or any part or portion thereof, or to the mails, farms, profits and duties of the ſame, of whatſoever years or terms bygone, or to come, by reaſon of ward, marriage, ſingle or double avail thereof, relief, non-entry, eſcheat, liferent, forfeiture, *(here follow forth the remaining part of the clauſe* de novodamus, *albeit here omitted, becauſe in former ſignatures inſerted, and then ſay) And further*, his Majeſty wills and grants, and for his Majeſty and his royal ſucceſſors, with advice and conſent foreſaid, decerns and ordains, that a ſeiſin now to be taken by the ſaid Sir W. B. and by his foreſaids, in all time coming, at the ſaid manor-place of K. built or to be built by the ſaid Sir W. B. or at the market-croſs of the ſaid burgh of regality of K. and that by deliverance of earth and ſtone allenarly, ſhall ſtand valid, and be a ſufficient ſeiſin to them for all and ſundry the ſaid lands, baronies, regality, and burgh of barony and regality of K. haill juriſdictions, privileges and pertinents thereof above written, and haill other towns, lands, baronies, heritable office of ſheriff-ſhip, mills, woods, lochs, fiſhings, coal-heughs, rights of patronages, teinds, tenements, and others *reſpectivè* above ſpecified, with all their pertinents, lying, reſigned, appriſed, united, erected and annexed in manner *reſpectivè* foreſaid, notwithſtanding that the ſame formerly lay diſcontiguous and in divers ſheriffdoms and juriſdictions; whereanent, and with all that may follow thereupon, or that may be any ways objected againſt the validity thereof, his Majeſty, with conſent foreſaid, has diſpenſed, and by theſe preſents, for him and his royal ſucceſſors, diſpenſes for ever, to be holden, and for to hold, all and ſundry the ſaid towns, lands, baronies, regality, burghs of barony, and regality, privileges and juriſdictions thereof, heritable offices, mills, woods, lochs, fiſhings, coal-heughs, rights of patronages, teinds, tenements, and others *reſpectivè* above written, with all their pertinents, lying, reſigned, appriſed, united, annexed and erected in manner *reſpectivè* above ſpecified, to the ſaid Sir W. B. and to his heirs-male of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above mentioned, with and under the haill conditions, proviſions, reſtrictions, limitations, and qualifications *reſpectivè* above expreſſed, of his Majeſty and his Majeſty's ſucceſſors, in free barony and regality, with free chapel and chancellary, burghs of barony and regality, in free heritage and regality for ever, by all rights, meiths and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, *&c.* moſſes, muirs, *&c.* mills, multures *&c.* hawking, hunting, *&c.* coals, coal-heughs, *&c.* woods, fiſhings, *&c.* court-plaints, *&c.* furk, foſs, *&c.* pit and gallows, *&c.* with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* *Giving* therefor yearly the ſaid Sir W. B. and the heirs-male of tailzie and proviſion *reſpectivè* and *ſucceſſivè* above ſpecified, to his Majeſty and his Majeſty's ſucceſſors aforeſaid, the blench-duties and feu-farm-duties *reſpectivè* under written, *viz.* for all and haill the ſaid former erected barony of K. or L. comprehending all and ſundry the lands, baronies, and others *reſpectivè* above mentioned, with all their pertinents, (except the ſaid coal-heugh of K.) with the pertinents

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therein united, and the ſaid lands of L. boat, fiſhings, and pertinents thereof annexed to the ſame, a penny money of his Majeſty's kingdom of Scotland, with a pair of golden ſpurs for the ſaid lands of B. C. *&c.* at the principal meſſuage of —— at the feaſt of Whitſunday in name of blench-farm, if it be aſked allenarly; and for the ſaid coal-heugh called K. heugh, *&c.* the ſum of —— pounds, —— ſhillings, and — pennies money of the ſaid kingdom of Scotland, as the ancient duty uſed to be paid of before, and in augmentation of the rental yearly, the ſum of ——, extending in the haill to the ſum of —— money foreſaid yearly, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty, and the heirs of the ſaid Sir W. B. doubling the ſaid feu-duty the firſt year of their entry to the ſaid coal-heugh, with the pertinents thereof above ſpecified, as uſe is, of feu-farm allenarly; and for the ſaid lands of L. *&c.* the ſum of —— money of Scotland, with —— poultry, or four pennies money foreſaid for each of them, in the option of the payer; and for the ſaid boat upon the loch of L. pertaining thereto, called the abbot's boat, with the privileges and pertinents thereof, the ſum of —— ſhillings money foreſaid, how ſoon and whenſoever the ſaid boat ſhall have acceſs and uſe upon the ſaid loch, and ſhall be peaceably poſſeſſed and enjoyed by the ſaid Sir W. B. and his foreſaids; and the ſum of —— money above written, in augmentation of the old rental; and alſo the ſum of —— money foreſaid, of ancient duty payable to the convent and monaſtery of D. extending in the haill to the ſum of —— money above ſpecified, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-duty, and the heirs of the ſaid Sir W. B. doubling the ſaid feu-farm-duty the firſt year of the entry to the ſaid fiſhing and boat, with the pertinents, as uſe is, of feu-farm, and performing the ſuits of court yearly, at the three head-courts, to be holden at the tolbooth of D. or at any other place where it ſhall ſeem to his Majeſty expedient, at leaſt until the ſaid lands be altogether diſjoined in his Majeſty's parliament, from the ſaid lordſhip and regality of D. and no longer, and for the ſaid privilege and juriſdiction of regality, free chapel and chancellary, and right of juſticiary, and burgh of regality, weekly markets, and yearly fairs, privileges and pertinents thereof above mentioned, twelve pennies money of Scotland, at the market-croſs of the ſaid head-burgh of regality, at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, and due and lawful adminiſtration of juſtice to his Majeſty's ſubjects within the ſaid regality, and for the ſaid advocation, donation, and right of patronage of the ſaid pariſh-church and pariſh of K. and teinds, parſonage and vicarage thereof, a penny money of Scotland yearly, at the ſaid church at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly, for the ſaid advocation, donation, and right of patronage of the ſaid pariſh-church and pariſh of P. and teinds, parſonage and vicarage thereof, of two pennies money of the ſaid kingdom of Scotland, at the pariſh-church of P. at the feaſt of Whitſunday, in name of blench-farm, if it be aſked allenarly: *As alſo*, the ſaid Sir W. B. and his foreſaids, paying the local modified ſtipend and augmentations to the miniſter ſerving the cure at the ſaid church, from time to time, and building and repair-

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ing the said church, and kirk-yard dykes thereof, and paying his Majesty's taxations, and other burdens and impositions whatsoever, imposed, or to be imposed upon the said teinds, to the value and quantity of the same, belonging and corresponding allenarly, and no more: *And likeways* employing and dedicating out of the said teinds of the said parish of K. the sum of one hundred pounds money of the said kingdom of Scotland yearly, for the use of the said hospital, by such rules, orders and instructions as from time to time shall be made by the said Sir W. B. and his foresaids, for the said heritable office of sheriffship of the said sheriff-dom of K. privileges and pertinents thereof above mentioned, and for the said fairs and weekly markets, new and old, holden, and to be held by the said Sir W. B. and his foresaids, at the said burgh of barony of K. with tolls and customs thereof, a penny money of the said kingdom of Scotland, at the said market-cross of K. at the said feast of Whitsunday, in name of blench-duty, if it be asked allenarly, and due and lawful administration of justice to his Majesty's subjects within the said sheriffdom, for all other burden, exaction, question, demand or secular service that may be any ways justly asked or required by whatsoever person or persons, forth of the said haill lands, baronies, mills, mill-lands, multures, rights of patronages, heritable offices, teinds, and others above written, with the pertinents, or any part thereof, in time coming: And finally, his Majesty faithfully promises, *in verbo principis*, to ratify the said charter and infeftment, containing the said new erection of regality, and burgh of regality; as also, to dissolve and dismember the said kirk lands, teinds, and others *respectivè* above specified, from the said sheriffdoms *respectivè*, and from the said regalities of A. and D. and from his Majesty's crown, and patrimony thereof, in manner *respectivè* above mentioned, in the first session of his Majesty's first parliament; requiring, by these presents, his Majesty's estates of parliament to ratify and dissolve accordingly: And that the said charter be extended in the most ample and best form, with all clauses needful; and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

This signature passed at court, and ratified, with the said dissolution and new annexation accordingly.

SIGNATURE *of the Muir of* Muroman, *alias* Montrenthmonth, *in favours of* R. *Earl of* S. *with several Privileges.*

OUR SOVEREIGN LORD, with the special advice and consent of *(here the consents were taken in, according to the constitution of the exchequer, by a Lord high treasurer and treasurer-depute,* &c.) ordains a charter to be made and passed under his Majesty's great seal, in due and competent form, giving, granting and disponing, likeas his Majesty, with consent foresaid, by these presents, gives, grants and disponeth to his Majesty's trusty cousin and counsellor R. Earl of S. and to the heirs-male lawfully procreate, or to be procreate of his body;

body; which failing, to his heirs-male whatſoever; which failing, to his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill the muir of Montrenthmonth, with parts, pendicles, privileges, commodities and pertinents thereof whatſoever, now pertaining, or at any time bygone known to have appertained and belonged to the ſame, lying within the ſheriffdom of Forfar, with full power, liberty and privilege to the ſaid R. Earl of S. and his foreſaids, to labour and manure the ſaid muir, and to give the ſame in aſſedation to tenants, and to build houſes and tofts thereupon, or any part thereof, and to make and uſe other deeds of property within the ſame, as their own property, in all time coming, and to ſeclude and debar all other perſons whatſoever, already intruders, or to intrude in the poſſeſſion of the ſaid muir, or any part of the ſame, or by moving or improving, on pretext of property or commonty, paſturing of beſtial, caſting of fewel, feal and divot, building houſes or onſteads upon the ſaid muir, or by uſing the ſame otherways, as their own property and commonty, and to demoliſh and caſt down all and ſundry houſes, tofts or onſteads, and walls whatſoever built by any perſon or perſons, and to diſpoſſeſs and remove them from the ſaid muir, or any part thereof, together with all right, title, action, intereſt, claim of right, property or poſſeſſion whatſoever, as well peritor as poſſeſſor, which his Majeſty, his predeceſſors or ſucceſſors had, have, or any ways may have claim, or pretend to the ſaid muir, or any part thereof, in any time bygone or to come; to be poſſeſſed and enjoyed by the ſaid R. Earl of S. and his foreſaids, heritably and irredeemably, alſo in all time coming, without any right or title to be acclaimed by his Majeſty, or his Majeſty's ſucceſſors to the ſame, or any part thereof, any manner of way; and to the effect that the charter and infeftment of the ſaid muir, parts, pendicles, and pertinents thereof, may be the more effectual, his Majeſty, with conſent foreſaid, has diſſolved and disjoined, and by theſe preſents, for his Majeſty and his ſucceſſors, diſſolves and disjoins the ſaid muir of Montrenthmonth, parts, pendicles, privileges and pertinents thereof, from his Majeſty's crown and patrimony formerly, with the pertinents annexed thereto, and to be reputed, eſteemed, and holden as no part or portion of the ſame for the future, to be holden, and for to hold all and haill the ſaid muir of Montrenthmonth, with the parts, pendicles, privileges, commodities and pertinents of the ſame, lying as ſaid is, to the ſaid truſty and well-beloved, his Majeſty's couſin and counſellor R. Earl of S. and to the heirs-male of his body; which failing, to his heirs-male whatſoever; which failing, to his heirs and aſſignees whatſoever, of his Majeſty and his royal ſucceſſors, in feu-farm and heritage for ever, by all rights, meiths and marches of the ſame, old and divided, as the ſame ly in length and breadth, in houſes, biggings, fields, bounds and paſturages, leaſures, meadows, muirs, marſhes, mills, multures, and ſequels thereof, hawking, hunting, fiſhing, *&c.* coals, coal-heughs, *&c.* ſmiths, ſmiddies, *&c.* with court-plaint, *&c.* with common paſturage, free iſh and entry, and with all and ſundry other liberties, *&c.* freely, quietly, *&c.* but revocation, *&c.* giving therefor yearly the ſaid R. Earl of S. and his foreſaids, to his Majeſty and his ſucceſſors, the ſum of ſix ſhillings and eight pennies money of the ſaid kingdom of

Scotland, in name of feu-farm, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, and the heirs of the ſaid R. Earl of S. doubling the ſaid feu-duty the firſt year of their entry, as uſe is of feu-farm allenarly, and that for all other burden, *&c.* And his Majeſty promiſes, *in verbo principis*, to ratify the ſaid charter and infeftment in his Majeſty's next parliament; and for that effect, theſe preſents to be a ſufficient warrant: And that the ſaid charter be extended in ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

SIGNATURE *of Confirmation for Relief of Cautionries, and other Engagements of the eldeſt Son for the Father, and likeways for him and his Friends, at the Father's Deſire, and by him declared and acknowledged; and likeways for Security of the Son's Annuity payable to him by Contract of Marriage, and particularly for Relief of all Debts before the Son's Fee, or that thereafter he had contracted, or ſhould contract for, or with him, conform to the Diſpoſition granted of Lands for that Effect.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here take in the conſents, according to the conſtitution of the exchequer for the time, and then ſay:)* ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, ratifying, approving, and for his Majeſty and his royal ſucceſſors perpetually confirming, likeas his Majeſty, with conſent foreſaid, by theſe preſents, ratifies, approves, and for his Majeſty and his ſucceſſors aforeſaid, perpetually confirms a (6) right and diſpoſition of relief, containing precept of ſeiſin, made and granted by Sir A. C. elder of L. to his Majeſty's well-beloved Sir A. C. younger of L. his ſon, dated the —— day of —— 17— years, whereby the ſaid Sir A. C. elder, for his ſaid ſon's relief of all debts, and ſums of money for which his ſaid ſon was obliged, or ſhould be obliged, either conjunctly with his ſaid father, in any bonds, or other corroborative ſecurities, for debts and ſums of money, contracted, or to be contracted for the uſe of the ſaid Sir A. C. elder; and which haill debts ſo contracted, or to be contracted by them, conjunctly, in any obligation, or other ſecurity, the ſaid Sir A. C. elder, declared the ſame to be, and underſtood for his own proper uſe and utility; as alſo, for relief of all other debts, for which the ſaid Sir A. C. younger, is or may be obliged, as contracted by his ſaid father before the right of fee of his ſaid ſon, of the barony of L. *and in like manner*, of all other debts for which the ſaid ſon is obliged, or ſhall happen to be obliged, with his ſaid father and his friends, for ſums contracted and applied for the uſe of their ſaid friends, and for ſecurity of as much as is due, or ſhall happen to be due to the ſaid ſon, of the annuity payable to him yearly by his ſaid father, conform to his contract matrimonial, in manner ſpecified in the ſaid right and diſpoſition, and likeways for the other onerous cauſes therein mentioned, ſold, annalzied and diſponed to the ſaid Sir A. C. younger, and to his heirs-male and aſ-

ſignees,

ſignees, heritably, with and under the proviſion and condition therein expreſſed, *all and haill* the lands of B. (*here were the lands and others inſerted, and then*) and ſicklike, all and haill his liferent of the lands and barony of L. and of the principal office of uſher to his Majeſty, and of his fees, penſions, and caſualties thereof, and bound obliged him, and his heirs, on their own charges, to infeft and ſeiſe his ſaid ſon, and his foreſaids therein, by double infeftments, to be holden, with warrandice, and under reverſion, in manner ſpecified in the ſaid diſpoſition, as the ſame, containing precept of ſeiſin, and divers other obligements, articles and clauſes in itſelf more fully proports, together with the precept of ſeiſin therein inſert, and inſtrument of ſeiſin following, or to follow thereupon, in the haill heads, obligements, articles, clauſes, conditions, tenors and contents thereof; and his Majeſty wills and grants, (7) and for his Majeſty and his ſucceſſors, with advice and conſent foreſaid, decerns and ordains, that the ſaid general confirmation is, and ſhall be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, to the ſaid Sir A. C. younger, and his foreſaids, as if the ſaid (8) right and diſpoſition, precept of ſeiſin, obligements and proviſions therein contained, and inſtrument of ſeiſin following, or to follow thereupon, were, word by word, here inſert, and as if this preſent confirmation were granted before taking of ſeiſin of the ſaid lands; whereanent, and with all other exceptions and objections that may be any ways moved, proponed, or alledged againſt the validity of the ſaid confirmation, his Majeſty, with advice and conſent foreſaid, has diſpenſed, and by theſe preſents, diſpenſes for ever; ſaving and reſerving always to his Majeſty, and his royal ſucceſſors, the duties, rights, ſervices and caſualties, if any be, due and payable to them forth of the ſaid lands, or any part thereof, at any time before the ſaid confirmation: And that the ſaid charter be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

Nota, Some only engage in ſuch and ſuch particular debts, and to ſuch particular perſons, and in the bond of relief are ſo ſet down and enumerated; and, in effect, is the better way than to have the debts in the general, which may afterwards prove but a ſeed of plea at the beſt: At other times, the creditor will not lend his money, by following the faith of cautioners, but will have them all principals, as if a *fide-juſſor* were not in law, and by his obligation, as well bound to the payment of the debt as a principal party: and even in that ſame caſe, albeit the parties become all principals, the creditor will allow no clauſe of relief in his bond, either from the real principal party, who truly receives the money, to the other obligants, with an acknowledgment, that albeit all be principals, yet the whole money was received by ſuch a perſon, one of the ſubſcribers, and applied for his uſe and behoof, and no part thereof by, or to the behoof of the other perſons; nor yet will allow a conjunct relief amongſt themſelves; I mean the perſons who truly, upon the matter, ſhould only be cautioners; and, in that caſe, the perſon who truly receives the money, muſt give a bond apart, and ſhould be, if poſſible, of the date of the bond ſubſcribed by all, narrating the former bond; and ſubſuming, that albeit, to ſatisfy the creditor, all of them ſubſcribed as principals, granting the borrowing and receiving of the money, and they, and their heirs, *&c.* obliged, conjunctly and ſeverally, to pay the ſame; yet the truth is, the whole money was truly and really received by the ſaid —— and applied by him for his own uſe and behoof, and no part thereof for the uſe of the other ſubſcribers: And it being juſt and reaſonable they be relieved and ſecured thereanent, therefore, he obliges him and his

to do it, in the terms of the ſtyle of that nature, firſt part of the work, to which the index will lead you; and if the ſum be great, and a relief granted by an heritable bond and infeftment in land, (whereof you alſo have a ſtyle in the ſaid firſt part, to be found by the index) and that a perſon reſolve, for his ſecurity and ſafety, to confirm, then it alters from the former ſignature; and after the (6) figure continue the ſtile thus:

SIGNATURE *of Confirmation of an heritable Bond granted by a Gentleman to three Perſons, who, albeit they engaged as Principals with him to ſatisfy the Creditor, yet got none of the Money, and therefore bound to relieve them; and upon which Bond Seiſin followed in the Gentleman's Eſtate.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here take in the conſents, and then ſay)* ordains a charter to be made and paſſed under his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, ratifying (*as in the former ſignature, till the figure of* (6) *and then ſay*) an heritable bond granted by A. B. of —— to C. D. of —— W. M. of —— and L. H. of —— dated the —— day of —— 17— years, making mention, that albeit all of them, by their bond, of the date of the ſaid bond of relief, became conjunct principals, and granting themſelves to have borrowed and received from G. D. of —— the ſum of —— Scots money, and obliged them, conjunctly and ſeverally, their heirs, executors and ſucceſſors, to pay and deliver the ſame to the ſaid G. D. his heirs and aſſignees, ſecluding executors, betwixt the date thereof and the term of —— 17— years, with the ſum of —— money foreſaid, of liquidate expences, in caſe of failzie, and annualrent from the date to the ſaid term, and thereafter during the not-payment; yet the truth was, they only engaged as principals, to ſatisfy the ſaid G. D. the creditor, who would accept of no cautioners, but that truly and really the ſaid C. D. W. M. and L. H. received no part of the money, and the whole thereof only received by the ſaid A. B. and ſolely applied by him for his own uſe and behoof; and therefore the ſaid A. B. bound and obliged him, and his foreſaids, to warrant *(here take in the obligement of relief, in the preciſe terms of the bond of relief, whether it be only ſimply to warrant, or if to pay the money at the term, and report the bond to be cancelled, or to relieve at the term, as well not diſtreſſed as diſtreſſed; and if there be a penalty, let it be inſert alſo, and then ſay)* and for the forenamed perſons their further ſecurity thereanent, and but any derogation to the ſaid perſonal obligement or innovation thereof in any ſort, but in further corroboration of the ſame, *accumulando jura juribus*, bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid C. D. W. M. and L. H. and their foreſaids, in all and haill the town and lands of —— (*here inſert the lands, teinds and others, as in the bond of relief, and then ſay*) lying within the pariſh of —— and ſheriffdom of —— and that by double infeftments and manner of holdings, to be holden *à me* or *de me*, and with warrandice, and under reverſion, in manner ſpecified in the ſaid bond of relief, which contains divers other heads, obligements, articles and clauſes conceived in favours of the ſaid C. D. W. M. and L. H. and their foreſaids, in relation to their ſaid relief, together

ther with the precept of ſeiſin therein inſert, and inſtrument of ſeiſin following, or competent to follow thereupon, in the haill heads, articles and clauſes of the ſame. And his Majeſty, with conſent foreſaid, wills and grants (*after this follow forth the ſtile of the former ſignature from the figure of* (7) uſque ad finem; *only advert, that whereas in the former it bears,* as if the ſaid right and diſpoſition, *figure* (8) *ſay here,* as if the ſaid heritable bond of relief, *and conclude in all the reſt till ye come to*) Given at

Nota, At other times, a perſon as principal, and others only as cautioners, grant bond; and the principal, at times, if the ſum be great, gives an heritable bond for relief, containing precept of ſeiſin; and ſhould there be a confirmation deſired, it is moſt eaſy, and after inſert.

SIGNATURE *of Confirmation, in favours of Cautioners, of their Infeftment of Relief in the principal Party's Eſtate.*

OUR SOVEREIGN LORD, (*take in the conſents, as formerly enjoined, and then ſay*) ordains a charter to be made and paſſed (*here take in the ſtyle of the ſignature of confirmation, page* 306, *till ye come to the* (6) *figure, and then ſay*) heritable bond of relief, granted by A. B. of —— to C. D. of —— W. M. of —— and L. H. of —— dated the —— day of —— 17— years, whereby he bound and obliged him, his heirs, executors and ſucceſſors, to warrant, free, relieve, harmleſs and ſkaithleſs keep, them, their heirs, executors and ſucceſſors, of their cautionry for him, in a bond granted by him as principal, and the forenamed perſons as cautioners, conjunctly and ſeverally, to G. D. of —— his heirs and aſſignees, ſecluding executors, thereupon, of the date of the ſaid bond of relief, for the ſum of —— Scots money of principal, payable at the term of —— 17— years, with the ſum of —— money foreſaid, of liquidate expences, in caſe of failzie, and annualrent from the —— to the ſaid term, and thereafter during the not-payment, and of all coſt, ſkaith, damage, intereſt, charges and expences they might happen to ſuſtain or incur therethrough, by whatſoever manner of way, thereafter, in time coming. And for their farther ſecurity thereanent, (*after this follow forth the ſtyle of the immediate former ſignature,* uſque ad finem.)

SIGNATURE

SIGNATURE *of several Dispositions, Charters, Tacks, Assedations, Subtacks, Seisins, and others, not unworthy of reading and due Observation.*

OUR SOVEREIGN LORD, with the special advice and consent of (*here take in the consents, and then say*) ordains a charter to be made and passed under his Majesty's great seal of the said kingdom, in due and competent form, ratifying, approving, and for his Majesty and his royal successors perpetually confirming, likeas his Majesty, with advice and consent foresaid, by these presents, ratifies, approves, and for his Majesty and his royal successors, perpetually confirms to L. M. of A. and to his heirs-male and assignees, in all time coming, the dispositions, charters, assedations, tacks, subtacks, seisins, and others after specified, *viz.* a disposition and feu-right, of the date at C. the —— day of —— 17— years, made and granted by Sir H. C. of C. heritable proprietor of the lands and others under written, in favours of the said L. M. and his heirs-male and assignees whatsoever, heritably and irredeemably, of all and and haill the said Sir H. C. his half of the town and lands of —— lying within the lordship of S. and sheriffdom of I. together with the multures and sequels of the said lands, and liberty of bigging a mill thereupon, with all right, title and interest which he had, or any ways may pretend thereto, or any part thereof, in all time coming, to be holden of the said Sir H. C. and his heirs and successors, in feu-farm, fee and heritage for ever, for yearly payment to them of the sum of ten pounds money of the said kingdom, at the feast of Martinmas yearly, in name of feu-farm, and doubling the said feu-duty the first year of the entry of the heir to the said lands and others foresaid, as use is of feu-farm, and disponed to the said L. M. and his foresaids, all liferent escheats, which should fall in their hands, as superiors foresaid, and all profits and commodities of the same, for payment, in that case, of the sum of ten merks money foresaid, as oft and how oft as they should happen to occur and fall out, except the denunciation be at the superior's instance allenarly; and likeways constitute the said L. and his foresaids, heritable baillies of the said lands, and others above specified, with power to them, and their substitutes in their names, for whom they shall be answerable to the said Sir H. C. and his above written, to hold and keep baillie-courts within the said lands, and bounds thereof, to and upon the tenants and inhabitants of the same, and others concerned, and to administrate justice to all persons having interest, and to punish all transgressors for blood and bloodwits, and other crimes, faults and delicts committed by them, and pertaining to the said court, and to begin, affix and continue the said courts as oft as need beis, to make citations, call suits, absents to amerciate, and the amerciaments and escheats of outlaws in the said court, with the herezalds of the said lands, to uplift and to apply the same for their own use, and if need beis, to poind and distrenzie therefor, clerks, serjeants, officers, dempsters, and other members of court needful, to make, create, ordain, and cause be sworn, and for whom they shall be answerable, (and with divers other privileges and liberties therein expressed) together

gether with the precept of seisin therein contained, and seisin following thereupon, dated the —— day of —— thereafter: *Item*, A letter of tack and assedation, by way of contract made and passed betwixt the deceased J. Earl of M. L. D. and A. heritable proprietor of the barony of S. (whereof the lands and others under written, are proper parts and pertinents) on the one part, and T. F. younger of S. *&c.* on the other part, dated at P. and S. the —— and —— days of ——, 1639, registered in the commissary-court-books of I. the —— day of —— whereby the said noble Earl, for the causes therein specified, set, and in tack and assedation, for the mail and duty under written, let to the said T. F. younger of S. and to his heirs and assignees, subtenants and servants whatsoever, all and haill the half davoch lands of W. Easter A. with houses, biggings, *&c.* mill, multures, and sequels thereof, and that for all the days, space, years and terms of nineteen years immediately subsequent to the said T. F. his entry thereto, which was at the date of the said assedation; and, after the ish and expiration of the said nineteen years, for all the days, space, years and terms of other nineteen years; and, after the ish and expiration of the said second nineteen years, for all the days, space, years and terms of other nineteen years; and thereafter from nineteen years to nineteen years, for all the days, space, years and terms of twenty times nineteen years, to be fully and completely expired, without any interval and breach of time, years, or terms; and, after expiration of the said time and space of the first twenty times nineteen years, for all and haill the years and terms of other twenty times nineteen years, and ay and while the full and complete ish and expiration of the said second twenty times nineteen years; and, after the ish of the said second twenty times nineteen years, for all the days, space, years and terms of other twenty times nineteen years, and ay and while the full and complete ish and expiration of the said three twenty times nineteen years; with full power to the said T. F. younger, and his foresaids, during the said space, peaceably to enjoy, labour, use, and dispone upon the said lands, and others above written, with the pertinents, and to in-put and out-put tenants therein, and forth thereof, courts for the said end and effect, and payment of the duties, to keep and hold, and to create all members of court, as freely as if they were infeft and seised therein, and with all and sundry other commodities, liberties, easements, and righteous pertinents belonging thereto, or that shall be known to appertain to the same, freely, quietly, well and in peace, but any revocation, impediment, obstacle, or again-calling whatsoever; and disponed their escheats, if they fell, in favours of the said T. F. and his foresaids, *gratis*; and dispensed with all nullities and irritancies, in case of not payment of the yearly tack-duty of three pounds money foresaid therein mentioned: *Item*, An heritable right and subtack of the said lands, and others foresaid, made by T. F. of S. heir served and retoured to the said T. F. of S. younger, his father, for the haill space of the years and terms of the said principal tack as yet to run, to the said L. M. and his foresaids, dated the —— day of —— 17— years: *Item*, A principal tack and assedation, by way of contract, passed betwixt A. E. of M. and the said L. M. on the one and other parts, of the date at C. 6th December 1661, whereby the said noble Earl

set

ſet in tack to the ſaid L. M. and his heirs-male and aſſignees of the ſurname of M. and G. allenarly, for all the days, ſpace, years and terms of the ſaid L. M. his lifetime, and after his deceaſe, to his heir-male aforeſaid, during his lifetime, and after his deceaſe, to another heir-male during his lifetime, and after his deceaſe, to a third heir-male, for the ſpace of nineteen years; and after expiration of the ſaid nineteen years, for the ſpace of other nineteen years; and after expiration of the ſaid ſecond nineteen years, for the ſpace of other nineteen years; and after expiration of the ſaid three lifetimes, and three nineteen years, for all the days, ſpace, years and terms of other three liferents, and three nineteen years; and after expiration of the ſaid other three liferents, and three nineteen years, for all the days, ſpace, years and terms of other three liferents, and three nineteen years; and, after expiration of the ſaid three liferents, and three nineteen years, for all the days, ſpace, years and terms of other three liferents, and three nineteen years; and, after elapſing of the ſaid fourth three liferents, and three nineteen years, for all the days, ſpace, years and terms of other three liferents, and three nineteen years; and, after expiration of the ſaid fifth three liferents, and three nineteen years, for all the days, ſpace, years and terms of other three liferents, and three nineteen years; and ſo the ſaid tack and aſſedation ſhall continue and endure to the ſaid L. M. and his heirs-male and aſſignees above ſpecified, of the ſurname of M. and G. for all the days, ſpace, years and terms of ſix three liferents and ſix three nineteen years, without any intermiſſion of time; all and haill the davoch lands of Meikle and Little A. with the mill, *&c.* lying within —— and their entry declared to be at the feaſt of Whitſunday preceding, and thereafter to continue and endure in the peaceable poſſeſſion, enjoying and bruiking thereof, and thereupon to uſe and diſpone, with privilege of courts, creating of clerks, and other members, and of other privileges, liberties, commodities and immunities therein ſpecified, and for payment of the yearly tack-duty therein contained, all here holden as for expreſſed *brevitatis cauſa*, precepts of ſeiſin therein infert, and inſtruments of ſeiſin following thereupon, dated the 14th December, and regiſtered in the particular regiſter then kept at I. the 16th of the ſaid month and year: *Item*, A contract betwixt the deceaſed J. E. of M. and Eugenius M. in E. on the one and other parts, of the date the —— day of —— 17— years, whereby the ſaid noble Earl, for the cauſes therein ſpecified, gave, diſponed, and in feu-farm ſet to the ſaid E. M. and his heirs-male and aſſignees whatſoever, heritably and irredeemably, all and haill the lands of Meikle and Little B. *&c.* lying within —— and obliged him, his heirs and ſucceſſors, to infeft and ſeiſe the ſaid E. M. and his foreſaids therein, to be holden of the ſaid Earl, his heirs-male and ſucceſſors whatſoever, Earls of M. in feu-farm and heritage, for payment of the feu-duty therein mentioned, at the terms therein expreſſed, and doubling the ſaid feu-duty the firſt year of the entry of each heir to the ſaid lands, and with all other liberties, immunities and privileges therein rehearſed, here holden as for expreſſed *brevitatis cauſa*, with the charter following hereupon, of the date thereof, precept of ſeiſin therein contained, and inſtrument of ſeiſin following thereupon, dated the —— day of ——, regiſtered

——, regiſtered the ——: *Item*, A charter, of the date the —— day of —— 17— years, granted by umquhile J. E. of M. to the ſaid E. M. and M. N. his ſpouſe, the longeſt liver of them two, in conjunct fee, and to the heirs-male betwixt them; which failing, to the ſaid E. M. his heirs-male and aſſignees, of the ſurname and family of M'P. and G. whatſoever, of all and haill that plough and half plough of land of I. and B. *&c.* to be holden of the ſaid noble Earl, and his foreſaids, in feu-farm, for payment of the duty therein expreſſed, and with all other liberties and privileges therein contained, precept of ſeiſin therein inſert, and inſtruments of ſeiſin following thereupon, dated the —— and regiſtered the —— together with the rights and infeftments granted to the ſaid L. M. and his predeceſſors, by the ſaid Eugenius M. or his ſucceſſors of the ſaid lands of M. and Little B. and mill thereof, and of the ſaid lands of I. and B. multures and pertinents thereof above mentioned, in the haill heads, obligements, articles, clauſes and conditions of all the ſaid tacks, aſſedations, contracts, diſpoſitions, charters, ſeiſins and other rights above confirmed; and his Majeſty wills and grants, and for his Majeſty and his royal ſucceſſors, decerns and ordains the ſaid general confirmation to be as valid and ſufficient, and of as great force, ſtrength, and effect, to all intents and purpoſes, to the ſaid L. M. and his foreſaids, in all time coming, as if the ſaid tack, aſſedation, contracts, ſubtacks, diſpoſitions, charters, ſeiſins, and other writs and rights generally above confirmed, were, word by word, herein particularly and at length inſert, and as if the ſaid confirmation were granted before taking of ſeiſin, and death of the authors and predeceſſors of the ſaid L. M. in the ſaid rights, albeit the ſame be not ſo done; whereanent, and with all that may follow thereupon, or may be objected againſt the validity thereof, and with all nullities, faults and imperfections therein, his Majeſty has diſpenſed, and for his Majeſty and his royal ſucceſſors, with conſent foreſaid, by theſe preſents, diſpenſes for ever; ſaving and reſerving always to his Majeſty, and his Majeſty's ſucceſſors, the feu-duties, and other duties (if any be) due and payable to them forth of the ſaid lands and others above ſpecified, and contained in the original infeftments, and rights of the ſame, at any time before the ſaid confirmation. And that the ſaid charter be extended in moſt ample form; and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

Nota, It may be thought ſtrange why ſuch long tacks are granted, and have not been given out in feu-farm, as the other lands were: The anſwer may be clear and obvious; for it is like, many ſuch have been granted by the ſame author for conveniency, but could not feu, leſt, being a major part, might infer recognition, if the lands held of the King, by ſervice of ward and relief. And albeit it may be ſuppoſed, if not urged, that a confirmation previous to a ſeiſin, might prevent that inconveniency, as to that confirmed, yet what ſhould come of the reſidue or leſſer part, which I leave to lawyers; and no queſtion, lawyers have preſcribed theſe long tacks as the more ſafe way, (being no alienation, but an aſſedation) and yet as to the duration of the poſſeſſion, and benefit intended, was the ſame materially.

Nota, I have ſeen a ſignature, procured by the good town from the King, of all the cellars, vaults, foſſes, chambers, or what elſe under ground, or the high ſtreets of the city and ſuburbs, as fallen in the King's hands, by the heritors their encroachment on the ſtreets belonging to his Majeſty, and in effect, the true effects of purpriſion being donew ithout the

King's conſent; but the magiſtrates for the time, procurers thereof, were juſt, in not taking advantage of the honeſt neighbours, whoſe property is thereby ratified, and ſo continues with themſelves, but amongſt them paid the expence; wherein there was no injuſtice; and, being done according to the import of each perſon's concern (whether ſmall or great) ſhew no inequality in the matter. It is truly a pretty ſignature, well penned, and no leſs conſulted, and I no further concerned in it, than, as depute-keeper, to paſs it at the privy ſeal.

Having written all I intend by way of ſignatures in civil matters, whether by conveyance, in a legal or conventional way, or by gifts and donations that paſs in exchequer, and the whole ſeals; in the next place, I judged it convenient to ſet down ſome remiſſions, of various kinds, and of diſtinct crimes, which likeways paſs in exchequer, and expede the whole ſeals; ſome whereof only for life, and others for life and fortune, and others containing a rehabilitation, with a redintegration to their former honours and capacities, and declared to be habile as witneſſes, and paſſing on inqueſts and aſſizes.

SIGNATURE *of Remiſſion for Adultery.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of *(here the conſents are taken in, according to the conſtitution of the exchequer for the time, and then follows)* ordains a letter of remiſſion to be made and paſſed under his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, remitting and pardoning, likeas his Majeſty, for himſelf and his royal ſucceſſors, with conſent foreſaid, by theſe preſents, freely remits and pardons D. G. in the pariſh of K. the filthy crime of adultery, committed by him with E. B. his ſervitrix, the —— days of the months of —— or —— laſt bypaſt, or any other day or days of the ſaid months and year foreſaid, with all rancour, envy and malice which his Majeſty has, or may have againſt him for the ſaid crime, together with all action, inſtance and execution, as well civil as criminal, that may be moved or proſecuted againſt the ſaid D. G. his perſon or goods, heritable or moveable; inhibiting and diſcharging his Majeſty's juſtice-general, juſtice-clerk, the Lords commiſſioners of juſticiary, the Lords of his Majeſty's treaſury and exchequer, and his Majeſty's advocate, for his Majeſty's intereſt, from all convening, purſuing, apprehending or convicting of the ſaid D. G. for the ſaid crime of adultery, and of their offices in that part, in all time coming, becauſe the ſaid D. G. gave caution and ſoverty to give ſatisfaction to the church. And that the ſaid letter of remiſſion be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed thereupon, in form as effeirs. *Given at*

Nota, Remiſſions of this nature paſs in exchequer in courſe, having a commiſſion for that effect, and not under the King's own hand, without it be of great import.

SIGNATURE

SIGNATURE *of Remiſſion for* Leſe-Majeſty, *or Treaſon, in favours of* P. H. *but only as to Life, and with a Reſerve of the Eſtate, real and perſonal belonging to him the Time of the Doom of Forfeiture, and yet with a Liberty to acquire and ſucceed to any other Eſtate thereafter.*

OUR SOVEREIGN LORD ordains a letter of remiſſion to be made and paſſed under his Majeſty's great ſeal of his ancient kingdom of Scotland, in due and competent form, making mention, That his majeſty, conſidering that P. H. ſecond lawful ſon of A. H. of K. moſt unadviſedly, and out of his youthful ignorance, and by the incitement and pernicious counſel of ſome of the rebels, was enſnared and had acceſſion to the late rebellion againſt his Majeſty's deareſt brother Charles the ſecond, of bleſſed memory, within his ancient kingdom of Scotland, in the months of —— —— years, and that the ſaid P. H. was condemned and forfeited for that cauſe, in a juſtice-court holden at —— the —— day of —— by the Lords juſtice-general, juſtice-clerk, and commiſſioners of juſticiary of his Majeſty's kingdom aforeſaid, as in the decreet and ſentence of forfeiture given and pronounced thereanent, more fully bears; and his Majeſty, underſtanding that the ſaid P. H. does altogether hate and abhor the ſaid crime of rebellion and leſe-majeſty committed by him, and that with great ſenſe and remorſe, he has repented thereof, and given great and ſufficient teſtimonies and evidences to the Lords of his Majeſty's privy council, of his indignation and great hatred and deteſtation againſt all actions and rebellious principles, and of his intention and reſolution of living as a faithful and dutiful ſubject for the future, as the act of recommendation granted by the ſaid Lords of his Majeſty's privy council thereanent, more fully bears; and his Majeſty chuſing rather, and being graciouſly pleaſed to reclaim every one of his Majeſty's ſubjects, acknowledging their crimes, and penitent thereof, than to inflict upon them what due of the law for ſuch crimes; therefore, his Majeſty, of his innate goodneſs, clemency and mercy, with the ſpecial advice and conſent of his Majeſty's right truſty and well-beloved couſins and familiar counſellors *(here were all inſert, the conſtitution being then in a treaſury, and then)* alſo with advice and conſent of the remanent Lords and others of his Majeſty's exchequer of the ſaid kingdom, remitting, indemnifying, pardoning, forgiving, and in oblivion for ever interring, likeas his Majeſty, by theſe preſents, with advice and conſent foreſaid, remits, indemnifies, pardons, forgives, and in oblivion for ever inters, to the ſaid P. H. the ſaid crime of leſe-majeſty, inſurrection and rebellion committed by him, in that he took up arms, and joined himſelf with the rebels, and thoſe in rebellion, guilty of leſe-majeſty, who appeared armed againſt his Majeſty's deareſt brother Charles the ſecond, of bleſſed memory, and his perſon and government, and by his power ſcattered and overthrown the ſaid year at ——, or that the ſaid P. H. had acceſſion to the ſaid rebellion, or was found in arms, ſupplied or furniſhed riches and help to any of the ſaid rebels, or had converſe with them the time foreſaid, or any time bygone, or afterwards, or whatever he did or acted in

their favours; and in like manner, all and ſundry other crimes of leſe-Majeſty and rebellion whatſoever, by any thing done, ſpoken, adviſed or contrived by him, whereby he may be any manner of way burdened or affected, or whereof he was actor art and part at any time bygone, preceding the day and date hereof, ſpecially and truly the ſaid ſentence of forfeiture given and pronounced againſt him, and all execution thereof, with all following or competent to follow thereupon (6) as to his life allenarly, without prejudice always to his Majeſty and his donators, of any benefit accreſcing to his Majeſty by the ſaid ſentence of forfeiture of his eſtate, poſſeſſions, goods, moveable and immoveable, pertaining to him the time of the ſaid ſentence, and notwithſtanding his Majeſty, of his ſpecial grace and favour, rehabilitates, repones and reſtores the ſaid P. H. againſt the ſaid ſentence, ſo as he is rendered capable of bruiking and enjoying any lands, offices and goods accreſcing or falling to him from the time of the ſaid ſentence, or ſhall happen hereafter to acquire during his lifetime, or to which he may ſucceed; as alſo, repones all deſcending of him, in ſo far, againſt the ſaid ſentence of forfeiture, by which they are rendered incapable or inhabile of enjoying and poſſeſſing lands, honours, offices and goods whatſoever (7). *Moreover*, his Majeſty, for himſelf and his royal ſucceſſors, inhibits his Majeſty's juſtice-general, juſtice-clerk, Lords commiſſioners of his Majeſty's juſticiary, his Majeſty's advocate, and all other judges and miniſters of the laws, that they do not preſume any further to execute the ſaid ſentence of forfeiture, and from all further accuſing, citing, indicting or purſuing of the ſaid P. H. for the crimes aforeſaid, or any other crimes of rebellion, or leſe-majeſty, committed by him before ſigning of theſe preſents, and from all moleſtation, incarceration, or troubling of him in his perſon, or perſonal liberty, (9) and of their offices in that part, in all time coming: And that the ſaid letter of remiſſion be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

Nota, The king at other times grants remiſſion, both as to life and fortune, and differs nothing from this, except to omit betwixt the figure (6) and the figure (7), as to life and eſtate real and perſonal; and in place thereof, inſert the following clauſe: *And farther, his Majeſty, of his ſpecial grace and favour, by theſe preſents, with advice and conſent foreſaid, rehabilitates, repones and reſtores the ſaid P. H. againſt the ſaid ſentence and doom of forfeiture, ſo as he is hereby rendered capable, not only of bruiking and enjoying any lands, offices, and goods accreſcing, or ſhall fall to him from the time of the ſaid ſentence, or ſhall happen hereafter to acquire during his lifetime, or to which he may ſucceed, but alſo, even all the eſtate, real and perſonal, belonging to the ſaid P. H. the time of the ſaid ſentence of forfeiture, in the ſame ſtate and condition as he was in before his committing of, or being in acceſſion to, all or either of the ſaid crimes, particularly or generally above ſpecified; and ſicklike, repones all deſcending of him againſt the ſaid ſentence of forfeiture, by which they are rendered incapable or inhabile of enjoying and poſſeſſing lands, honours, offices and goods whatſoever, and declaring the ſaid P. H. his blood, and of thoſe deſcending of him, tainted and ſuppreſſed by the ſaid crimes and ſentence following thereupon, to be now, by Our royal grace and favour, extended in manner foreſaid, fully and entirely purified and redintegrated* in omnibus, *as before the ſaid ſentence and doom of forfeiture.*

I have

I have also seen in remissions after these words: *And that the said P. H. may also pass upon inquests and assizes, and be a habile witness in all writs and evidents, as fully and freely in all respects as before the said sentence; and anent all which, his Majesty, with advice and consent foresaid, has dispensed, and by these presents, for his Majesty and his royal successors, dispenses for ever.*

After this take in all from the figure (7), *usque ad finem*; only observe, that when the remission is for fortune, as well as life, in place of these words, *person, or personal liberty*, betwixt the figures (8) and (9), let your words be these, *person, or estate real or personal.*

Nota, Some remissions after the narrative bear: *Therefore his Majesty, of his innate benignity, special grace, mercy, favour and prerogative royal, with advice and consent of, &c.* (as in the former signature, and then) *freely remitting, pardoning, forgiving, in oblivion interring, and for ever absolving, and fully exonering, likeas his Majesty, by these presents, with consent foresaid, freely remits, pardons, forgives, in oblivion inters, and for ever absolves, and fully exoners the said — of the said crime of rebellion and lese-majesty, in joining with the said rebels, and in helping, assisting, consenting, counselling, commanding or concealing any thing relating to the said rebellion, or otherways whatsoever, or by acting directly or indirectly in that matter against his Majesty, or the Lords of his Majesty's privy council, or others having authority and commission in the said kingdom from his Majesty or them, and of the said sentence and doom of forfeiture pronounced thereupon against him, and all that has followed or may follow thereupon.*

Some, but few, in the close of the remission, insert briefly a gift to the persons remitted, of their moveable escheat, which upon the manner was wrong, and against the ancient stile, by which it should have passed by a particular gift under the privy seal only, and not the whole seals; but the persons not being opulent, I never quarrelled it.

One thing more as to remissions for treason, as I have read several, and some of them of import, so they were of various narratives, and differed in stile according to the several facts and circumstances thereof, and as might conduce most to the obtaining of what intended; and in this a writer should be circumspect, and, by advice of lawyers, do things so as may prove most convenient and secure, not being false upon the matter; and be sure, were there never so many crimes to be remitted, it is proper that the greatest crime be first mentioned and insert, and then as many more as there may be cause for, and then a general of all other crimes, *&c.* and writers should also advert, that it is absolutely necessary to make distinction betwixt murder and manslaughter, the first being a deliberate act, and the other accidental; and at times, remissions being only for slaughter, were rejected in the criminal court, because it was murder, forethought felony, lying in wait, and previous threats that were libelled; and the procurer of this remission for slaughter, as would appear, termed it so, to palliate the matter, and procure the same with less difficulty, having produced the same in court, was rejected upon that head and mistake; and yet the judges had so great deference to his Majesty's royal hand, that they did not proceed, but continued him a long time prisoner, until he procured a new remission of the fact, as libelled.

SIGNATURE *of Remission for Slaughter.*

OUR SOVEREIGN LORD, with the special advice and consent of (*here take in the consents, according to the constitution of the exchequer for the time, and then say*) ordains a letter of remission to be passed his Majesty's great seal of the said kingdom, in due and competent form, remitting, pardoning, freely and fully forgiving, and for ever discharging, likeas his Majesty, out of his special grace, mercy, and favour, by these presents, remits, pardons, forgives, freely and fully

fully exoners, and for ever diſcharges J. F. of C. of the ſlaughter and killing of umquhile J. A. of —— committed by the ſaid J. F. in diſcharging a hand-gun or piſtol, the —— day of —— laſt bypaſt, and of whatſoever nature the ſaid crime be of, and of all rancour, malice, hatred of mind which are conceived, or to be conceived thereanent, againſt him, or kinſmen, friends, relations, or ſervants, for the ſaid crime, and of all amerciaments, fines, puniſhment, eſcheat of goods, or other peril, prejudice or damage whatſoever, which he may any ways ſuſtain or incur in his life, liberty, perſon or goods, and of all accuſations, dilations, and other actions, as well civil as criminal, which may be any ways intented or purſued againſt him for the ſaid crime in time coming: Moreover, inhibiting and diſcharging, by theſe preſents, his Majeſty's juſtice-general, juſtice-clerk, commiſſioners of his Majeſty's juſticiary, and their deputes, his Majeſty's advocate, and other judges and miniſters of his Majeſty's laws, from all proſecution, apprehending, attacking, convocating, dilating, accuſing, convicting or condemning the ſaid J. F. either civilly or criminally, for the ſaid manſlaughter, and of their offices in that part in all time coming, ſo as the ſaid ſlaughter ſhall remain in perpetual oblivion, and holden and eſteemed as if the ſame had never been committed by him; and that becauſe B. M. relict of the ſaid J. A. and G. A. in —— only brother of the ſaid J. A. for himſelf, and taking burden on him for M. A. only daughter of the ſaid umquhile J. A. and for all others his kinſmen, friends, relations, and in affinity with him, have freely remitted and forgiven the ſaid J. F. for the ſaid manſlaughter, in manner, for the cauſes, and upon the conſiderations mentioned in the letters of ſlains granted by them to the ſaid J. F. thereanent, dated the —— day of —— laſt bypaſt; and that the ſaid letter of remiſſion be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at

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SIGNATURE *of Remiſſion for Slaughter, in another Form, and appointing an Aſſythment to be paid to the Relict and neareſt of Kin, formerly modified by the Lords.*

OUR SOVEREIGN LORD, (*here inſert the conſents*, ut prius, *and then ſay*) ordains a letter of remiſſion to be made and paſſed under his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, remitting, pardoning, forgiving, and for ever freeing and indemnifying, likeas his Majeſty, by theſe preſents, of his ſpecial grace and favour, royal prerogative, and privilege of his crown, with advice and conſent foreſaid, remits, pardons, and for ever forgives and indemnifies C. T. O. of L. for the crime of manſlaughter, committed by him upon the perſon of umquhile A. L. of G. in the month of —— 17— years, with all action and inſtance whatſoever, civil or criminal, which may follow thereupon, or that may be any ways moved, intented, or purſued againſt the perſon, eſtate, or goods of the ſaid C. T. O. for the ſaid crime, with all rancour and prejudice that his Majeſty has,

has, or may have againſt him for the ſaid crime in all time coming, by freely forgetting, in oblivion interring, remitting and diſcharging the ſaid crime to the ſaid T. O. and all that has followed or may follow thereupon, and admitting and receiving the ſaid T. to his Majeſty's grace and favour for the future, notwithſtanding thereof, and as the ſame had never been committed; and, by theſe preſents, inhibits and diſcharges his Majeſty's juſtice-general, juſtice clerk, commiſſioners of juſticiary, and his Majeſty's advocate and ſolicitors, and all other judges, as well civil as criminal, within his Majeſty's kingdom aforeſaid, from all incarcerating, confining, apprehending, purſuing, or moleſting the ſaid T. O. in his perſon, eſtate, fortune and goods, for the ſaid crime, any manner of way in time coming; and ordains all proceſſes, libels, and indictments intented againſt him, with all heretofore thereupon done, to be void, extinct and null, and the ſaid T. to be relaxed and reſtored to his Majeſty's peace, if already denounced for the ſame; providing always, that the time of the expeding of his Majeſty's remiſſion in his Majeſty's exchequer, the ſaid T. O. ſhall be obliged to ſatisfy and pay to the ſaid widow and neareſt of kin of the ſaid umquhile A. L. ſuch ſums of money, in name of aſſythment, as the ſaid treaſurer, treaſurer depute, and Lords of exchequer ſhall modify, and which ſums are modified by the ſaid treaſurer and other Lords of his Majeſty's exchequer aforeſaid, to the ſum of ——, and is conſigned in the hands of G. M. one of the clerks of the ſaid exchequer, conform to the act and ordinance of the ſaid exchequer, dated the —— day of —— laſt bypaſt; and that the ſaid letter of remiſſion be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at

Note, The aſſythment being not only modified but conſigned, I think the writer ſhould rather inſert a clauſe, ordaining it to be given up upon a diſcharge, than to pay a ſum conſigned.

SIGNATURE *of Remiſſion for Mutilation, and wrongous apprehending of a free Subject, without Warrant or Order of Law.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents, ut prius, and then ſay*) ordains a letter of remiſſion to be paſſed and expede his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, making mention, that his Majeſty, conſidering that J. G. of G. the time of his minority, concurred in the hills with a conſiderable number of his name and family, with the Earls of G. and M. againſt the late uſurpers, and that he and his predeceſſors carried and demeaned themſelves faithful ſubjects to his Majeſty, and his moſt royal progenitors, and adhered conſtantly to his Majeſty's ſervice, and that the ſaid J. G. lived in great friendſhip, by the ſpace of eight years laſt paſt, with M. G. R. of J. againſt whom the crimes after mentioned were committed; therefore, his Majeſty, with advice and conſent foreſaid, remitting, pardoning and forgiving, and for ever in oblivion interring, likeas his Majeſty, of his

royal

royal clemency and goodneſs, and by virtue of his prerogative royal, by theſe preſents, remits, pardons and forgives, and for ever in oblivion inters to the ſaid J. G. of G. the crime of violent taking and apprehending the perſon of the ſaid M. G. R. and co-acting and compelling him to grant bonds and other ſecurities, and detaining and keeping him until he granted the ſame, and emitting other perſons to the committing of the ſaid crimes; and ſicklike all acceſſion which he had to the emitting and ſending forth any perſon or perſons whatſoever, to the aſſaſſinating, mutilating the finger of R. A. meſſenger in F. or abſconding and hiding of him, and all rancour, malice and envy conceived in his Majeſty's heart, or that may be conceived by his Majeſty for the ſame, and all actions and cauſes civil and criminal, that may be moved, proſecuted, or objected againſt the ſaid J. G. therefor, and all peril and hazard which he has ſuſtained or incurred, or may ſuſtain or incur for the ſaid offence, in his perſon, lands or goods; inhibiting and diſcharging hereby his Majeſty's juſtice-general, juſtice-clerk, and other Lords of his Majeſty's juſticiary, his Majeſty's treaſurer, and treaſurer-depute, his Majeſty's advocate, and all others his Majeſty's miniſters of the laws within the ſaid kingdom, from all calling, convening or purſuing the ſaid J. G. for the crimes above ſpecified, and of their offices in that part in all time coming; and that the ſaid letter of remiſſion be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at

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SIGNATURE *of Remiſſion for Theft, being by Law Treaſon in a landed Perſon, containing a Rehabilitation and Redintegration to his Fame, Goods, and firſt Capacity.*

OUR SOVEREIGN LORD, with the ſpecial advice and conſent of (*here take in the conſents*, ut prius, *and then ſay*) ordains a letter of remiſſion to be paſſed and expede his Majeſty's great ſeal of the ſaid kingdom, in due and competent form, remitting, pardoning, and fully and freely exonering and diſcharging, likeas his Majeſty, by theſe preſents, remits, pardons, and fully and freely exoners, and for ever acquits and diſcharges H. C. of L. of and for all treaſonable crimes, defects, and other crimes and offences, with which he may be charged or burdened, for all thefts, high-way robbing and oppreſſions by him acted, done and committed, or for helping, aſſiſting, favouring, conſenting, conſulting, adviſing, commanding, permitting or concealing any thing pertaining or relating to the ſaid thefts, high-way robbing and oppreſſions with which he may be charged or burdened, preceding the date hereof, and particularly, but prejudice of the generality foreſaid, for all treaſon or other crimes whatſoever, with which he may be charged and burdened for his acceſſion to the theft, high-way robbing and oppreſſion committed by the invaſion and breaking of the houſe of M. J. E. miniſter at G. the —— day of —— 17— years, whereby the ſaid H. G. may be any ways interrogated, accuſed, judged or purſued in life, liberty, privilege, fame, capacity or ſtation,

ſtation, or any other manner of way civilly or criminally, for all or either of the ſaid crimes above mentioned, ſaid, acted, done or committed by him, or eſcapes any time preceding the date hereof, and decreet and ſentence given and pronounced againſt him, and declaring him fugitive for the crimes particularly and generally above ſpecified, or any of them: Moreover, his Majeſty, with advice and conſent foreſaid, by theſe preſents, inhibits and diſcharges all judges ordinary, and deputes within his Majeſty's kingdom aforeſaid, and all other perſons whatſoever, to trouble, cite, hear or admit any accuſation, indictment, claim, action, complaint, civil or criminal againſt the ſaid H. C. or to grant warrant for apprehending or confining his perſon, or any other action againſt him or his eſtate, real or perſonal, for any of the crimes above expreſſed. And farther, his Majeſty, of his kingly power, regal authority, and free favour and clemency, by theſe preſents, reſtores, rehabilitates and redintegrates the ſaid H. C. again to his goods, fame, and former capacity, and makes him to be an habile witneſs, and to uſe all lawful acts in judgment, or outwith the ſame, ſicklike, and as freely in all reſpects, as he might have done before the committing of the ſaid crimes hereby pardoned, remitted, and in oblivion interred; and ſicklike, his Majeſty prohibits and diſcharges his Majeſty's advocate, to move, proſecute, favour, countenance, or concur in any complaint, indictment, action or proceſs which are intented, or may be commenced againſt the ſaid H. C. for any of the crimes above expreſſed; and that the ſaid letter of remiſſion be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form, as effeirs. Given at

Nota, There be as many draughts of remiſſions, as there be capital crimes, and particularly for rape, whereof kings are tender, if the lady injured; but for fire raiſing, being againſt humanity, and being of kingdom or common-wealth, witchcraft and Sodomies, I never ſee any.

Nota, To conclude this part of the work, all remiſſions of capital crimes are paſſed under the king's own hand, and not in courſe in exchequer, by commiſſion, as other ſignatures are; and ſo are all ſignatures taxing lands from ſimple ward, and that contain clauſes, *de novo damus*, or erection of burgh of barony, regalities, and burghs royal, with weekly markets and yearly fairs, tolls and cuſtoms thereof, new gifts of patronages, erections of lands, and others in earldoms, lordſhips, baronies and tenandries, and diſſolving them from others to which formerly annexed, erection of harbours, ſea-ports, and the like, diſſolution of lands and others from ſheriffdoms, regalities, and other juriſdictions, wherein formerly incorporated, and to which annexed, and uniting, annexing and incorporating the ſame to, or with another ſhire or regality, and what elſe *regium*, and that belongs to the prerogative royal; and yet I have ſeen, at times, commiſſions granted by the king, which always paſs the great ſeal *per ſaltum*, to the treaſurer-principal, treaſurer-depute, and exchequer, containing power not only to paſs ſignatures by reſignation, confirmation, recognition, *ultimus hæres*, baſtardy, and other gifts, and of appriſings, adjudications, preſentations, and the like, but alſo power to tax from ſimple ward: And at this time, the Lords walked by a rule of making the fifth part of the valued rent, deducing a fifth part for teind, to be the yearly duty of the lands, during the ward and nonentry, or either of them, and the like for the relief, and the double for the marriage *cum contigerint*; but this commiſſion did not continue long, when it was renewed with an exception of the power of taxing, and remiſſions for capital crimes; and no doubt, that thoſe favours might flow originally and immediately from the king himſelf, as the fountain, and his royal bounty and benignity known, and not by delegation or commiſſion; and yet all thoſe under

the king's royal hand, as well as others under the verge and compass of the said commissions, are still compounded by the Lord high treasurer and treasurer depute, or by the Lords of treasury, when in commission, and passed in exchequer, and thereafter expede the seals.

I have seen a charter in favours of Colonel Hector Munro of Fowlis, knight and baronet, and to his heirs male, proceeding upon a signature under King Charles I. of glorious memory, his royal hand, of some lands and pieces of ground in Nova Scotia in America, particularly bounded, and extended in limits three miles in breadth, and six in length, with the teinds gre* and small, mills, multures, salmon fishings, and other fishings, as well in salt as fresh waters, patronages of churches, benefices, and chaplainries founded and to be founded, with mines and minerals of gold, silver, metals of brass, *&c.* and with the gift of all precious stones, pearls, jewels, *&c.* and with the privilege of regality, free chapel and chancellary within all the said bounds, and with all other honours, liberties, commodities, immunities, prerogatives, dignities, pre-eminencies, profits and casualties whatsoever, particularly and generally expressed in any other infeftments granted by his Majesty, or his royal father, to any other persons; and which charter contains many clauses noble and fine, and erects all in a free barony and regality, called the barony and regality of Fowlis, with a dispensation to take seisin at the castle of Edinburgh, and accordingly, seisin taken thereat, the 7th of July 1634, and registered in the general registers at Edinburgh, the 16th day of August thereafter, by Mr. Francis Hay, depute to the clerk of register. I could have set down the signature, but judged the same unnecessary.

Many more signatures might have been insert, but omitted, since he that is for sometime educated, and thereby master of, and versed in what set down, will find no difficulty in any other.

Nota, I have seen some lands feued out *cum maritagio*, and by a charter under the king's royal hand, have seen the marriage taxed in the same way as if the marriage fell by the lands their holding ward, being all one to the superior, as to the marriage, whether the same fall the one way or the other.

I have also seen lands feued out of old, *cum pacto de non vendendo aut non alienando*, without consent of the superior; yea, I have seen not only that, but also *cum pacto de non contrahendo*; so that in case of contravention in either case, the vassal lost the property, and fell under recognition; and as in other charters, I have seen both, so the king was graciously pleased to subjoin this clause or quality, *And his Majesty, for his Majesty and his royal successors, with consent above specified, hereby wills, declares, decerns and ordains, that the selling of the lands irredeemably, or the contracting of debt thereupon, and securing the creditor therein for the same, by way of wadset-right of an annualrent or annuity, forth thereof, or by bond bearing infeftment in the lands themselves, for security of the debt, or any other manner of way, shall infer no ground of recognition against the heritor or his heirs, but that it shall be leisome and lawful to them, notwithstanding of any such deeds, to peaceably possess, bruik and enjoy the same, as if any such clauses had never been insert in the right of feu; and dispenses with any such alienation or contraction, and all that may follow thereupon, for ever.*

The END *of the* SECOND BRANCH *of the* FOURTH PART *of the* WORK.

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THE

THIRD THING or BRANCH

PROPOSED IN THE

FOURTH PART of the whole Syſtem of Stiles, is,

What paſſeth all the ſeals, the quarter ſeal excepted, and yet do not paſs in exchequer, becauſe there is nothing paid yearly to the king, by way of reddendo, *as in all other ſignatures, ſuch as ſignatures of archbiſhopricks and biſhopricks, ſometimes called preſentations or creations, and at other times tranſlations; the firſt having its riſe and origin from a new creation of a doctor in theology, or other miniſter, not formerly a biſhop, to be archbiſhop or biſhop, and the other from being, after the death of an archbiſhop or biſhop once inveſted and conſecrated, tranſlated from one ſee to another, which in ſuch caſes is uſual, becauſe of learning, experience and pre-eminence of the ſtation, office and dignity of the ſee falling vacant; and whether the one way or the other, the vacance fall out, precepts in Latin muſt be written, and the firſt ſtep is, that which goes under the ſignet, as the warrant of the reſt, and whereof I ſet down the precepts of the two archbiſhopricks and biſhopricks of Edinburgh and Galloway in Latin, and the reſt by way of ſignature, whether preſentation or tranſlation, in Engliſh, that all may know the matter, as well as form, in both caſes; only conſider, that the narrative of theſe run in another channel and ſtrain than thoſe after the reformation, the government at firſt being by ſuperintendants and biſhops reformed of the number; and albeit not without trouble of Mr. Andrew Melvil, and others, who came from Geneva, continued ſo until King James* VI. *that moſt illuſtrious and ſerene prince, his going for England in the year* 1603, *to enjoy that crown, to which he ſucceeded by blood and righteous inheritance, by the deceaſe of Queen Eliſabeth; and ſome years after that, his Majeſty, with conſent of the eſtates of parliament, ſuppreſſed the government in the church of Scotland by ſuperintendants, and eſtabliſhed epiſcopacy therein, and the narrative of their patents run upon the ſaid ſuppreſſion, and the act of parliament; and after the year* 1638, *the government by archbiſhops and biſhops, and their deans and chapters being aboliſhed and ſuppreſſed, preſbytery was eſtabliſhed, and came in place, and continued till the year* 1662, *at which time King Charles* II. *and his Majeſty's eſtates of parliament reſcinded the former eſtabliſhment in this church by preſbytery, and all acts made in its favours, and reſtored the former government by archbiſhops and biſhops, their deans and chapters, and runs upon that ſpecifick narrative; all which reſpective narratives I omit, as extraneous to my deſign in my ſyſtem of ſtiles, and begin according to the preſent order and conſtitution, with*

TRANSLATIO *Arthuri Archiepiſcopi Glaſguenſis, ad Archiepiſcopatum Sancti Andreæ, poſt obitum Alexandri ultimi incumbentis.*

CAROLUS Dei gratia, Magnæ Britanniæ, Franciæ et Hiberniæ Rex, fideique defenſor, predilecto noſtro conſanguineo, et conſiliario Joanni Atholiæ Marchioni, noſtri ſecreti ſigilli cuſtodi, ſalutem: Quia nos intelligentes archiepiſcopatum Sancti Andreæ, nunc in manibus noſtris vacaſſe et ad noſtram diſpoſitionem deveniſſe ex obitu Alexandri, noviſſimi archiepiſcopi ejuſdem, et primatis et metropolitani totius Scotiæ, et nos per literas noſtras licentiæ, ſub noſtro ſecreto ſigneto, de data octavo die menſis Septembris, ultimo elapſæ poteſtatem et libertatem dediſſe noſtro confiſo et prædilecto Joanni epiſcopo Edinburgenſi, archiepiſcopatus Sancti Andreæ, vicario aliiſque ſuffragantibus epiſcopis, et paſtoribus per actum parliamenti, ſtatutis capitulum, ad archiepiſcopum Sancti Andreæ eligendum convenire, et eligere, et nobis preſentare, virum qualificatum illius dictæ metropolitanæ ſedis fore archiepiſcopum, ſecundum quas prædictum capitulum virtute, noſtrarum prædictarum literarum licentiæ eligerunt et nobis preſentarunt noſtrum præ confiſum, et prædilectum conſiliarium Arthurum archiepiſcopum Glaſguenſis, tanquam virum dicti archiepiſcopatus Sancti Andreæ, maxime idoneum et qualificatum archiepiſcopum fore pro ut eorum literæ teſtificationis ſub ipſorum manibus, de data decimo ſexto die menſis Octobris inſtantis, latius proportant: Nos igitur nominavimus, creavimus, et ordinavimus, tenoreque preſentium nominamus, creamus et ordinamus prefatum Arthurum, nunc archiepiſcopum Glaſguenſis, archiepiſcopum Sancti Andreæ, et primatem et metropolitanum totius Scotiæ, dando, concedendo et diſponendo ei durantibus omnibus ejus vitæ diebus, dictum archiepiſcopatum Sancti Andreæ, et integrum beneficium ejuſmodi, cum omnibus beneficiis iiſdem annexatis, una cum omnibus et ſingulis terris, dominiis, baroniis, abaciis, prepoſituris, manſionibus, caſtris, turribus, fortaliciis, manerierum locis, hortis, pomariis, molendinis, ſilvis, piſcariis, annuis, redditibus, eccleſiis, advocationibus, donationibus, juribus patronatuum, decimis magnis et minutis, tam rectoriis quam vicariis, fructibus, redditibus, proventibus, emolumentis, ſuperioritatibus, feudefirmis, aliiſque fructibus, canis, cuſtumis, commoditatibus, caſualitatibus, annexis, connexis, partibus, pendiculis et pertinentiis earundem, quibuſcumque tenentibus, tenandriis, libereque tenentium ſervitiis ubicunque exiſtunt ſeu jacent, infra dictum regnum noſtrum Scotiæ, una etiam, cum jure, privilegio et juriſdictione regalitatis, liberæ capellæ et cancellariæ, et cum omnibus et ſingulis aliis dignitatibus, honoribus, præeminentiis, immunitatibus, juriſdictionibus et libertatibus pertinentibus, et quae ad dictum archiepiſcopatum aliquo tempore præterito a prima fundatione ejuſdem pertinuerunt, et quæ poſſeſſæ et gaviſæ fuerunt, et quæ poſſideri et gauderi poterint, per dictum nuperrimum archiepiſcopum, ſeu aliquos ſuos prædeceſſores archiepiſcopos ejuſmodi, virtute proviſionum dicti archiepiſcopatus aliorumque beneficiorum eidem annexat. et jurum ipſis de ſuper conceſſorum cum poteſtate præfato Arthuro, nunc archiepiſcopo Sancti Andreæ, gaudendi, fruendi et poſſidendi, dictum archiepiſcopatum Sancti Andreæ, et omnia alia beneficia eidem annexata, cum omnibus et ſingulis terris,

ris, manſionibus, caſtris, turribus, fortaliciis, manerierum locis, hortis, pomariis, molendinis, ſilvis, piſcariis, eccleſiis, advocationibus, donationibus, et juribus patronatuum, juriſdictionibus, juribus et privilegiis regalitatis, et liberæ capellæ et cancellariæ, et omnibus aliis honoribus, dignitatibus, præeminentiis, immunitatibus, juriſdictionibus et libertatibus quibuſcunque, nec non cum poteſtate recipiendi, intromittendi et diſponendi ſuper totis et integris decimis rectoriis et vicariis feudefirme divoriis, aliiſque fructibus, firmis, canis, cuſtumis, cenſibus, emolumentis, caſualitatibus, proficuis et divoriis, tam temporalitatis quam ſpiritualitatis, ad dictum archiepiſcopatum ſpectantibus et pertinentibus, et omnibus aliis beneficiis eidem annexatis, quæ per prædictum quondam Alexandrum nuperrimum archiepiſcopum hujuſmodi poſſeſſæ fuerunt, vel quæ per aliquos ipſius prædeceſſorum poſſeſſæ, gaviſæ et receptæ fuerunt ſeu poterant, aliquo tempore præterito, vel quæ, quocunque tempore futuro ad dictum archiepiſcopatum Sancti Andreæ pertinere poſſint, una cum omnibus et ſingulis aliis commoditatibus, libertatibus, et aſiamentis, libere, quiete, bene et in pace, abſque ulla revocatione, ſeu contradictione aliquali: Declarando per preſentes, omnes donationes et conceſſiones factas per noſmet-ipſos vel quoſvis ex noſtris illuſtriſſimis progenitoribus, quorumcunque reddituum caſualitatum, privilegiorum, jurum patronatuum, et commiſſariatuum ad dictum archiepiſcopatum pertinentium, in favorem quarumcunque perſonarum in præjudicium dicti archiepiſcopatus reſciſas vacuas et irritas eſſe, ac ſi eaedem unquam factæ vel conceſſæ fuiſſent, exceptis et reſervatis, de preſenti hac noſtra donatione et diſpoſitione, jure, privilegio, libertate et juriſdictione commiſſariatus, ſeu quotæ partis teſtamentorum, lie quots of teſtaments, alioque beneficio predicti commiſſariatus pertinentibus, per chariſſimum noſtrum patrem, beatae memoriae, epiſcopatui Edinburgenſi, conceſſis et diſpoſitis per novam cartam fundationis et erectionis dicti archiepiſcopatus, infra bondas, eccleſias et parochias jacentes, ex auſtrali latere aquae de Forth, quae perprius ad dioceſin dicti archiepiſcopatus pertinuerunt; reſervata tamen, dicto Sancti Andreae archiepiſcopo, ſuiſque ſucceſſoribus in praedicta ſede metropolitana, ſola et plenaria poteſtate, eligendi, nominandi et preſentandi quatuor commiſſarios Edinburgenos, eorumve aliquem quandocunque cujuſvis eorum officium vacare contigerit, modo mentionato in donatione noviſſima ſub magno noſtro ſigillo, de data vigeſimo tertio die menſis Octbris, anno Domini milleſimo ſexcenteſimo ſeptuageſimo primo, per nos praefato noviſſimo Sancti Andreae archiepiſcopo ſuiſque in dicta ſede metropolitana ſucceſſoribus, ad effectum ſupra ſpecificatum conceſſa, et quoniam vice juriſdictionis commiſſariatus, ſeu quotae partis teſtamentorum aliorumque beneficiorum eodem ſpectantium modo antedicta, noſtro chariſſimo patri benigne viſum fuit per ipſius cartam, mortificationis et diſpoſitionis, de data vegeſimo primo die menſis Maii, anno Domini milleſimo ſexcenteſimo trigeſimo quinto, dare, concedere, mortificare et diſponere Joanni, tunc Sancti Andreae archiepiſcopo, et ipſius ſucceſſoribus hujuſmodi archiepiſcopatus, totas et integras terras, dominia, baronias, molendina, ſilvas, piſcarias, parca, foreſta, manſiones, manerierum loca, tenementa, domos, aedificia, hortos, pomaria, eccleſias, capellas, collegia, decimas magnas et alias fructus reditus, emolumenta, feudefirme firmas, canas, cuſtumas, caſualitates, proficua et cenſus quoſcunque, cum tenentibus, tenandriis, libereque tenentium ſervitiis et

omnibus

omnibus pertinentiis quibuſcunque, ad prioratum et abbaciam Sancti Andreae, patrimonium et proprietatem earundem, tam ſpiritualitatis quam temporalitatis, perprius ſpectantibus ubicumque eadem jacent infra dictum regnum noſtrum Scotiae, et quorum priores et conventus dictae abbaciae in poſſeſſione fuerunt aliquo tempore preterito, praeſertim totas et integras terras de Northbank, et decimas garbales hujuſmodi incluſas, terras de Claremouth, cum decimis garbalibus earundem incluſis Sancti Andreae pertinuerunt, cum ſpiritualitate hujuſmodi, ac etiam totum et integrum illud collegium vocat. collegium Sancti Leonardi, infra dictam civitatem noſtram Sancti Andreae fundatum, cum omnibus terris, domibus, aedificiis, hortis, partibus, pendiculis et pertinentiis ejuſmodi quibuſcunque, una cum proviſione, nominatione et admiſſione principalis, omniumque preceptorum, regentium et burſariorum, dicti collegii quotieſcunque cujuſvis eorum locum vacare contingerit per deceſſum, dimiſſionem, deprivationem, ſeu quovis alio modo quocunque, una cum omni jure titulo ac intereſſe competentibus ſeu nobis competere valentibus, in et ad quaſcunque terras, baronias, eccleſias decimas et alia quacunque ad dictum prioratum Sancti Andreæ, tanquam ſpiritualitatem ſeu temporalitatem, patrimonium, ſeu proprietatem earundem ſpectantia pro ut in dicta carta fundationis, mortificationis et donationis latius continetur. Dedimus igitur conceſſimus, et pro nobis et ſucceſſoribus noſtris, non ſolum ratificavimus præſcriptam cartam mortificationis, verum etiam de novo damus et concedimus præfato Arthuro (nunc Sancti Andreæ archiepiſcopo) ſuiſque ſucceſſoribus Sancti Andreæ archiepiſcopis, totum et integrum dictum erectum dominium prioratus Sancti Andreæ, integras terras, baronias, eccleſias decimas et alia, quæcunque eidem ſpectantia, vel quæ olim ad dictum prioratum Sancti Andreæ, ſpiritualitatem et temporalitatem hujuſmodi pertinuerunt, in dicta carta per prefatum noſtrum chariſſimum patrem, beatæ memoriæ, præfato Johanni (tunc Sancti Andreæ archiepiſcopo) conceſſa, contenta et comprehenſa: Cum poteſtate prædicto Arthuro nunc Sancti Andreæ archiepiſcopo, fruendi, gaudendi et poſſedendi, dictum prioratum et integra hujuſmodi beneficia, cum omnibus et ſingulis terris, manſionibus, caſtris, turribus, fortaliciis, manerierum locis, hortis, pomariis, molendinis, piſcariis, eccleſiis, advocationibus, donationibus, juribus patronatuum, juriſdictionibus et libertatibus quibuſcunque, recipiendi, levandi et diſponendi ſuper omnibus et ſingulis decimis, rectoriis et vicariis firmis, annuis redditibus, aliiſque redditibus, firmis, canis, cuſtumis, emolumentis, caſualitatibus, proficuis et devoriis, tam temporalitatis quam ſpiritualitatis, ad dictum monaſterium pertinentibus et ſpectantibus, quæ poſſeſſæ fuerunt, aut quæ per aliquos priores Sancti Andreæ conventus hujuſmodi, aliquo tempore præterito, frui, gauderi et percepi poterint, cum omnibus et ſingulis, aliis commoditatibus et beneficiis eidem ſpectantibus libere, quiete, bene et in pace, abſque ulla revocatione, contradictione, aut obſtaculo aliquali. Inſuper, quia nos, certiores facti ſumus, caſtrum Sancti Andreæ (antiquam manſionis domum archiepiſcoporum hujuſmodi) penitus dirutum et ſolo equatum eſſe, et quod neceſſe ſit manſionem et habitationis domum in uſum dicti incumbentis prædictæ ſedis metropolitanæ, extrui et ædificari quæ plurimos, exigit ſumptus, et impenſas, et conſiderantes quod quandocunque compertum erit proventus dicti prioratus

excedere

excedere decem mille mercarum quottannis et sufficientem mansionem et habitationis domum, in usum dicti incumbentis ædificatam quod commodum erit, pro meliori provisione trium collegiorum universitatis Sancti Andreæ, prædictus archiepiscopus allocabit ex proventibus excrescentibus dicti prioratus summam quinquaginta librarum monetæ Sterlini annatim in usum principalis collegii divi Leonardi, viginti libras Sterlini in usum præfecti veteris academiæ, et sexaginta libras monetæ aut edictæ in usum professorum theologiæ in nova academia, quæ proportionatæ erint, pro ut prædicto archiepiscopo visum fuerit: Nos igitur, pro nobis et successoribus nostris declaramus præsentem hanc nostram donationem et mortificationem, immunem et liberam a provisione et ædificatione, cathedralis ecclesiæ Sancti Andreæ prout in dicta carta mortificationis providetur, penes quod dispensavimus tenoreque presentium, pro nobis et successoribus nostris dispensamus, ac si nulla talis clausula in dicta mortificatione inserta fuisset, donec nos magis idoneam structuram et edificationem dictæ ecclesiæ cathedralis curabimus, super his aliisque onerosis considerationibus nos moventibus: Declaravimus etiam, tenoreque presentium, declaramus omnes donationes per nos aut dictum quondam nostrum charissimum patrem concessas, cuicunque personæ seu quibuscunque personis antedicti prioratus et beneficii ejusmodi privilegiorum aut pertinentium quorumcunque, eo spectantium vacuas et irritas in semetipsis, ac si eædem nunquam datæ vel concessæ fuissent, ope exceptionis seu replicationis, absque ulla necessitate reductionis, aut quovis alio processu ad easdem reducendas, annihilendas, aut movendas, ordinamus etiam presentes hasce literas nostras proxima sessione currentis parliamenti, vel cujusvis alii parliamenti nostri Scotiæ ratificari, et authoritatem ordinum dicti parliamenti eisdem interponi; mandamus porro Dominis consilii et sessionis, alias literas nostras, super simplici mandato, decem dierum duntaxat dirigere ad instantiam dicti Arthuri Sancti Andreæ, nunc archiepiscopi, pro parata obedientia et solutione, illi suisque factoribus, camerariis et servis ejus nomine, omnium et singularum decimarum, rectoriarum et vicariarum, feudefirme firmarum, annuorum, reddituum, aliorumque fructuum, canarum, custumarum, casualitatum, reddituum, proficuorum, proventuum, emolumentorum et devoriarum quarumcunque ad dictum archiepiscopatum Sancti Andreæ, aliorumque beneficiorum eidem annexatorum, et ad dictum prioratum Sancti Andreæ, spiritualitatem et temporalitatem hujusmodi pertinentium et spectantium, de dimidio hujus instantis croppæ, et anni Domini millesimi sexcentesimi octuagesimi quarti, et similiter omnium et singulorum annuorum et terminorum futurorum, durante ejus vita; nec non, mandamus Dominos nostros secreti concilii, nostras alias literas dirigere, pro redditione et traditione præfato Arthuro, nunc Sancti Andreæ archiepiscopo, aliisque ejus nomine, omnium castrorum, fortaliciorum, turrium, manerierum, mansionum, hortorum, pomariorum, domorum, ædificiorum et aliorum quorumcunque ad dictum archiepiscopatum Sancti Andreæ, pertinentium et spectantium: Denique mandamus prædictam cartam, per dictum quondam nostrum charissimum patrem præfato Johanni, tunc Sancti Andreæ archiepiscopo, concessam in currente nostro vel ullo alio parliamento, si opus sit, ratificari, et a corona nostra dissolvi et disjungi; vobis igitur præcipimus et firmiter mandamus, quatenus preceptum nostrum,

sub

ſub dicto noſtro ſecreto ſigillo pro litera ſub magno ſigillo præfato Arthuro, nunc Sancti Andreæ archiepiſcopo, ſuper præmiſſis conficienda, cancellario noſtro, in forma capellæ noſtræ debite dirigatis. Datum apud curiam noſtram de Whitehall, trigeſimo primo die menſis Octobris, et anno milleſimo ſexcenteſimo octuageſimo quarto, regnique noſtri trigeſimo ſexto.

Per ſignaturam manu S. D. N. Regis ſupra ſignatam.

TRANSLATIO Alexandri *nuper Epiſcopi de* Brechen, *ad Archiepiſcopatum* Glaſguenſis *Electi.*

CAROLUS, &c. Dilecto noſtro conſanguineo et familiari conſiliario J. M. de A. &c. noſtri ſecreti ſigilli cuſtodi, ſalutem: Quia nos intelligentes archiepiſcopatum Glaſguenſis, nunc in manibus noſtris vacare et ad noſtram diſpoſitionem exiſtere, per tranſlationem Arthuri nuper ejuſdem archiepiſcopi, quodque nos per literas noſtras licentiæ ſub privato noſtro ſigneto, de data ——— die menſis ——— ultimo elapſæ poteſtatem, jus, et libertatem conceſſimus epiſcopis ſuffragantibus, et miniſtris in capitulum conſtitutis pro electione archiepiſcopi ſedis illius metropolitanæ conveniendi, eligendi, nobiſque preſentandi virum quendam apprime inſtructum tanquam archiepiſcopum dicti archiepiſcopatus de Glaſgow, atque conformiter dictum capitulum virtute prædictarum noſtrarum literarum licentiæ eligerunt nobiſque preſentarunt Alexandrum nuper epiſcopum de Brechen, tanquam apprime inſtructum et idoneum, archiepiſcopum fore dictæ ſedis metropolitanæ de Glaſgow, prout eorum literæ teſtificationis manibus ſuis ſignatæ, de data ——— die menſis ——— etiam ultimo elapſæ latius proportant. Igitur nominavimus, creavimus et ordinavimus, tenoreque præſentium nominamus, creamus et ordinamus prædictum Alexandrum, nuper de Brechen epiſcopum, archiepiſcopum de Glaſgow, et damus, concedimus et diſponimus ipſi durantibus omnibus ſuæ naturalis vitæ diebus, prædictum archiepiſcopatum de Glaſgow, et integrum beneficium ejuſdem, cum omnibus terris, (6) dominiis, baroniis, caſtris, turribus, fortaliciis, maneriei-locis, domibus, ædificiis, hortis, pomariis, molendinis, multuris, ſilvis, ſalmonum piſcationibus, aliiſque piſcationibus, eccleſiis decimis, rectoriis, aliiſque decimis, tam magnis quam minutis feude-firmis, aliiſque firmis, canis, cuſtumis, caſualitatibus, ſuperioritatibus, tenentiis, tenandriis, libereque tenentium, ſervitiis, advocationibus, donationibus et juribus patronatuum, omnium eccleſiarum, tam rectoriarum, quam vicariarum, prebendariarum, capellaniarum, omnibuſque aliis beneficiis, fructibus, proventibus, redditibus et emolumentis ad dictum archiepiſcopatum ſpectantibus, cum jure, libertate et juriſdictione liberæ capellæ et cancellariæ infra omnes limites dicti archiepiſcopatus Glaſguenſis, cumque univerſis privilegiis, libertatibus, dignitatibus, immunitatibus, honoribus, præeminentiis eo ſpectantibus, quæve dictus Arthurus nuper ejuſdem archiepiſcopus, ullive ex ejus predeceſſoribus tempore quolibet præterito a primæva ejuſdem fundatione

dationè poſſidebant et petiti ſunt aut poſſidere et petere poterant, aut dicto archiepiſcopatui annexata fuere, quæve in poſterum, eo ſpectare reperientur, ſive tanquam temporalitas ſive ſpiritualitas, patrimonium ſeu proprietas ejuſdem, ſpeciatim vero (ſine præjudicio generalitatis prædictæ) cum advocatione, donatione et jure patronatus eccleſiarum, rectoriarum et vicariarum de Ancrum, Aſkirk, Stobs et Edleſtoun, quæ ſunt eccleſiæ terrarum et baroniæ ad dictum archiepiſcopatum ſpectantes, ac una cum advocatione et donatione eccleſiarum, rectoriarum et vicariarum de Kilbryde et Torrence, cum omnibus fructibus, redditibus, emolumentis, proficuis, divoriis, annexis, connexis et pendiculis quibuſcunque ad dictum archiepiſcopatum attinentibus et ſpectantibus, omnibuſque aliis privilegiis, libertatibus, commoditatibus, aſiamentis et immunitatibus eo ſpectantibus, et ſimiliter totum et integrum rectoriam et vicariam eccleſiæ parochialis et parochiæ de Glaſgow, cum omnibus et ſingulis manſionibus, domibus, ædificiis, hortis, pomariis, decimis, rectoriis et vicariis, aliiſque decimis, tam magnis quam minutis, fructibus, proventibus, redditibus, caſualitatibus, canis, cuſtumis, emolumentis, proficuis, et divoriis quibuſcunque eo ſpectantibus, aliiſque pertinentiis earundem quibuſcunque, ubicunque jacent in regno noſtro Scotiæ, una cum omni jure, titulo, intereſſe et juriſclameo, quæ nos habemus, habuimus, aut ullo modo clamare vel pretendere poſſimus ad beneficia particulariter et generaliter ſupra expreſſa, vel aliquam earundem partem tempore futuro, virtute quorumcumque actorum parliamenti aliorumque actorum, ſtatutorum, legum, aut conſtitutionum dicti regni noſtri confectorum, aut confaciendorum, et volumus et concedimus perque præſentes, decernimus et ordinamus prædictam rectoriam et vicariam de Glaſgow, cum omnibus et ſingulis manſionibus, domibus, ædificiis, hortis, pomariis, decimis, rectoriis et vicariis, omnibuſque aliis decimis, magnis et minutis, fructibus, proventibus, proficuis et divoriis eo ſpectantibus, ubicunque jaceant in dicto regno, manere et continuare, cum præfato Alexandro, nunc Glaſguenſis archiepiſcopo, ejuſque ſucceſſoribus, archiepiſcopis, cum dicto archiepiſcopatu ejuſque beneficio, omni tempore futuro, tanquam partem patrimonii ejuſdem, quæque ſereniſſimus noſter, beatæ memoriæ, avus, prædicto archiepiſcoparui annexavit in favorem Jacobi, tunc temporis archiepiſcopi de Glaſgow, inſeperabiliter, cum eodem omni tempore futuro, tanquam partem patrimonii ejuſdem remanere, cum poteſtate dicto Alexandro nunc archiepiſcopo Glaſguenſis, durantibus vitæ ſuæ naturalis diebus, prænominato archiepiſcopatu, fruendi et gaudendi, una cum rectoria et vicaria prædictæ eccleſiæ parochialis et parochiæ de Glaſgow, unita et incorporata cum dicto archiepiſcopatu modo predicto, cum omnibus et ſingulis terris, dominiis, caſtris, turribus, fortaliciis, manerierum-locis, domibus, ædificiis, hortis, pomariis, molendinis, ſilvis, piſcationibus, decimis, rectoriis et vicariis aliiſque decimis, tam magnis quam minutis, feude-firmis aliiſque firmis, canis, cuſtumis, caſualitatibus, ſuperioritatibus, tenentiis, tenandriis, libereque tenentium, ſervitiis, advocationibus, donationibus et juribus patronatuum eccleſiarum, rectoriarum, capellaniarum, aliorumque beneficiorum, fructibus, emolumentis, caſualitatibus, proficuis et divoriis quibuſcunque, ad dictum archiepiſcopatum ſpectantibus, cum privilegio liberæ regalitatis, capellæ et cancellariæ, infra omnes limites dicti archiepiſcopatus de Glaſgow, omnibuſque aliis privilegiis,

libertatibus, immunitatibus, honoribus, dignitatibus et præeminentiis quibuſcunque eo ſpectantibus, atque diſponendi omnes fructus, redditus, caſualitates, proficua et divorias dicti archiepiſcopatus, ad ſuum libitum, ſimiliter adeoque libere in omnibus reſpectibus, ac dictus Arthurus nuper ibidem archiepiſcopus ullique predeceſſorum ejus Glaſguenſis archiepiſcoporum, ac rectoriarum et vicariarum predictæ eccleliæ parochialis de Glaſgow, beneficia reſpective prædicta, poſſiderunt et diſpoſuerunt aut poſſidere et diſponere potuerant ulla tempore preterito, non obſtantibus quibuſcunque actis parliamenti, alliiſque actis, legibus, ſtatutis et conſtitutionibus dicti noſtri regni Scotiæ, ſtatutis aut ſtatuendis: Mandamus porro Dominis concilii et ſeſſionis, alias noſtras leteras ſuper ſimplici mandato decem dierum duntaxat, ad inſtantiam præfati Alexandri, nunc archiepiſcopi Glaſguenſis, dirigere pro parata obedientia et ſolutione ei ejuſque camerariis, factoribus aliiſque ejus nomine, ejus poteſtatem habentibus, omnium et ſingularum dictarum decimarum, rectoriarum et vicariarum aliarumque decimarum, tam magnarum quam minutarum, feudifirmarum aliarumque firmarum, canarum, cuſtumarum et caſualitatum, fructuum, reddituum, proventuum, emolumentorum, proficuorum et divoriarum quarumcunque ad dictum archiepiſcopatum, rectoriam et vicariam ejuſdem annexatarum, idque pro dimidio proventus et anni milleſimi ſexcenteſimi et octogeſimi quarti, et annuatim et terminatim omni tempore futuro, durantibus omnibus diebus vitæ præfati Alexandri Glaſguenſis archiepiſcopi, mandamus, itidem Dominis noſtri ſecreti ſigilli literas concedere et dirigere, pro redditione et traditione dictorum caſtrorum, turrium, fortaliciorum, maneriei-locorum, hortorum, columbariorum, domorum, ædificiorum aliorumque ad dictum archiepiſcopatum pertinentium, præfato Alexandro, nunc Glaſguenſis archiepiſcopo, aliiſque ejus nomine, infra ſpatium ſex dierum poſt mandatum ſub pœna cornuationis, et denique, in verbo principis promittimus hanc noſtram donationem et proviſionem in currente hoc vel ſequenti parliamento dicti noſtri regni ratificare et approbare, atque, ſi neceſſe erit, prædictum archiepiſcopatum a corona noſtra diſſolvere; vobis igitur precipimus et mandamus, quatenus viſis preſentibus, præceptum noſtrum ſub ſecreto noſtro ſigillo pro diplomate noſtro ſub magno ſigillo, in tam debita et competenti forma, uti congruit ſuper præmiſſis, conficiendo cancellario noſtro, in forma capellæ noſtræ debite dirigatis. Datum ſub ſigneto noſtro, apud aulam noſtram de Whitehall, ſexo die menſis Decembris, anno Domini milleſimo ſexcenteſimo octogeſimo quarto, regnique noſtri anno trigeſimo ſexto.

Per ſignaturam manu S. D. N. Regis ſupra ſignatam.

PRECEPTUM *in favorem* J. *nuper* Candidæ Caſæ *Epiſcopi, tanquam nunc Epiſcopi* Edinburgenſis.

CAROLUS, &c. Prædilecto noſtro conſanguineo et conſiliario J. M. de Athole, noſtri ſecreti ſigilli cuſtodi, ſalutem: Quia nos intelligentes epiſcopatum Edinburgenſem, in manibus noſtris nunc vacare, et ad diſpoſitionem noſtram, per tranſlationem nuper ejuſdem epiſcopatus epiſcopi, exiſtere; et

et nos per literam noſtram licentiæ ſub privato noſtro ſigneto, de dato —— die menſis —— ultimo elapſi, poteſtatem, libertatem et licentiam, dediſſe decano et capitulo ejuſdem epiſcopatus Edinburgenſis conveniendi perſonam muneri epiſcopali in hac dioceſi obeundo idoneam eligendi, et nobis preſentandi, et eundem decanum et capitulum virtute dictæ noſtrae licentiae Joannem, nunc Candidae Caſae epiſcopum, tanquam perſonam muneri epiſcopali dicti epiſcopatus Edinburgenſis, obeundo maxime idoneam elegiſſe et nobis preſentaſſe, pro ut in eorum literis teſtificatioriis, ſub eorum manibus et ſigillo fuſius habetur: Igitur nominavimus, creavimus et ordinavimus, ſicuti per preſentes, nominamus, creamus et ordinamus dictum J. epiſcopum dicti epiſcopatus Edinburgenſis, et damus, concedimus et diſponimus dicto J. nunc Edinburgenſi epiſcopo, durantibus omnibus ſuae naturalis vitae diebus, dictum epiſcopatum, cum omnibus et ſingulis beneficiis, terris, dominiis, baroniis, abbaciis, eccleſiis, prepoſituris, prebendariis, capellaniis, alteragiis, caſtris, turribus, fortaliciis, manerierum-locis, domibus, aedificiis, hortis, pomariis, molendinis, multuris, ſilvis, ſalmonum piſcariis, et aliis piſcariis, annuis, redditibus, eccleſiis, decimis, rectoriis et vicariis, aliiſque decimis, tam magnis quam minutis, feudefirme-firmis, et omnibus aliis divoriis quibuſcunque, canis, cuſtumis, caſualitatibus, ſuperioritatibus, tenentibus, tenandriis, et libere tenentium ſervitiis, ſuperioritatibus omnium et ſingularum terrarum ad dictum epiſcopatum ſpectantibus, advocationibus, donationibus et juribus patronatuum omnium eccleſiarm, rectoriarum, vicariarum, capellaniarum, prebendariorum, alteragiorum et omnium aliorum beneficiorum, tam ſpiritualium quam temporalium, quorum preſentatio quovis tempore praeterito, vel ante religionis reformationem, vel poſtea, vel a fundatione et erectione ejuſdem epiſcopatus, ad epiſcopum Edinburgenſem pertinuit, vel ad eundem epiſcopatum, per ſereniſſimum patrem noſtrum, beatae memoriae, aut quoſvis alios noſtrorum ſereniſſimorum praedeceſſorum data aut annexata fuit, cum omnibus et ſingulis juriſdictionibus, ſuperioritatibus, aliiſque officiis ad eundem ſpectantibus, et omnibus aliis honoribus, privilegiis, dignitatibus, praeeminentiis et immunitatibus quibuſcunque ad eundem epiſcopatum, per primam fundationem ejuſdem pertinentibus, vel quae poſtea eidem annexatae et per Alexandrum nuper ejuſdem epiſcopum, aut quoſvis ejus praedeceſſorum quovis tempore praeterito poſſidebantur, aut quae ad dictum epiſcopatum Edinburgenſem, poſtea pertinere dignoſcentur, una cum juriſdictione, jure et privilegio regalitatis liberae capellae et cancellariae, omnibuſque aliis honoribus, dignitatibus, libertatibus, privilegiis et juriſdictionibus ad eundem epiſcopatum Edinburgenſem, vel per primam erectionem ejuſdem pertinentibus, vel quae poſtea eidem annexatae fuerunt, cum poteſtate dicto J. nunc Edinburgenſi epiſcopo, gaudendi, fruendi, et poſſidendi dictum epiſcopatum Edinburgenſem, et omnia beneficia et juriſdictiones ejuſdem antedictae, et cum omnibus et ſingulis terris, dominiis, caſtris, turribus, fortaliciis, manerierum-locis, hortis, pomariis, molendinis, ſilvis, ſalmonum aliorumque piſcium piſcariis, advocationibus, donationibus et juribus patronatuum, juriſdictionibus, regalitatibus, libertatibus, privilegiis, honoribus, dignitatibus, praeeminentiis et immunitatibus aliiſque ad dictum epiſcopatum Edinburgenſem pertinentibus, cum poteſtate etiam praedicto —— nunc Edinburgenſi

episcopo, intromittendi, percipiendi, levandi et disponendi omnes et singulas decimas, tam rectorias quam vicarias, feudefirme-firmas, aliasque firmas, fructus, redditus, emolumenta, decimas, custumas, casualitates, proficua et divorias, tam spiritualitatis tam temporalitatis, ad eundem episcopatum, vel ad beneficia eidem annexata, vel ad jurisdictiones in fundatione ejusdem specificatas, et contentas pertinentes et spectantes, cum omnibus et singulis commoditatibus, libertatibus, proficuis, asiamentis, aliisque pertinentiis quibuscunque, libere, quiete, plenarie, et in pace, absque ulla revocatione, contradictione, impedimento, aut obstaculo aliquali, non obstantibus quocunque parliamenti acta, aliisque legibus, statutis et constitutionibus regni nostri Scotiae, in contrarium, factis seu faciendis, praeterea nos promittimus, in verbo principis, hanc presentem donationem et provisionem, in hoc nostro currenti aut subsequenti parliamento dicti regni nostri ratificare et approbare, et si opus sit, a patrimonio nostrae coronae eundem episcopatum dissolvere: Mandamus porro Dominis nostri concilii et sessionis literas ad instantiam dicti J. nunc Edinburgensis episcopi, concedere et dirigere pro obedientia et solutione illi, ejusque factoribus, camerariis et servitibus aliisque, suo nomine, omnium et singularum decimarum, garbalium, aliarumque decimarum feudefirme-firmarum, aliarumque firmarum, canarum, custumarum, casualitatum, fructuum, reddituum, emolumentorum, proficuorum et divoriarum quarumcunque ad dictum episcopatum Edinburgensem, aut beneficia eidem annexata spectantium, idque de croppa et anno ——— et annuatim et terminatim, omni tempore futuro, durantibus omnibus dicti J. nunc Edinburgensis episcopi suae naturalis vitae diebus, sub simplici mandato decem dierum tantum, et similiter mandamus Dominis nostri secreti concilii, concedere et dirigere literas, pro redditione et traditione dicto J. nunc Edinburgensi episcopo, aliisque ejus nomine, omnium praedictorum castrorum, turrium, palatiorum, fortaliciorum, hortorum, columbariorum, manerierum-locorum, et aliarum domorum ad dictum episcopatum Edinburgensem spectantium, infra spatium sex dierum post mandatum, sub pœna cornuationis; vobis igitur praecipimus et firmiter mandamus, quatenus praeceptum nostrum, nostro sub secreto sigillo, cancellario nostro, pro litera nostra, nostro sub magno sigillo, in forma capellae nostrae, cancellario nostro, super praemissis, debite dirigatis. Datum sub signeto nostro, apud ——— —— die ——— regnique nostri ———

Per signaturam manu S. D. N. Regis supra scriptam.

Nota, This diploma is by translation, the person being formerly bishop of another diocese.

TRANSLATIO *ad Archiepiscopatum* Glasguensis *in favorem* Joannis *novissimi* Edinburgensis *Episcopi, per modum Translationis.*

JACOBUS, Dei gratia, Magnae Britanniae, Franciae et Hiberniae Rex, fideique defensor, praedilecto nostro consanguineo et consiliario J. M. de A. nostri secreti sigilli custodi, salutem: Quia nos intelligentes Glasguensem archiepiscopatum in manibus nostris vacasse, et ad nostram dispositionem devenisse,

se, per transmigrationem novissimi archiepiscopi ejusdem, et nos per literas nostras dispensatorias, sub secreto nostro signeto, de dato vigesimo primo die mensis Januarii ultimo elapsi, plenariam potestatem, libertatem, ac licentiam co-episcopis et capituli pastoribus, pro electione archiepiscopi illius sedis metropolitanae statutis conveniendi et elegendi nobisque presentandi virum apprime eruditum perfungi officio, archiepiscopi dicti archiepiscopatus Glasguensis praebuisse, secundum quas literas dispensationis seu licentiae dicti capituli pastores reverendum Deo patrem, et confisum et praedilectum nostrum consiliarium Joannem novissimum Edinburgensem episcopum, tanquam virum maxime idoneum, et instructum subire munus archiepiscopale dictae sedis metropolitanae Glasguensis, nobis elexerunt et presentarunt, pro ut in eorum literis attestationis sub eorum manibus, de dato vigesimo quarto die mensis Februarii ultimo elapsi, latius continetur: Nos igitur nominavimus, creavimus et ordinavimus, tenoreque presentium nominamus, creamus et ordinamus praefatum Joannem, novissimum Edinburgensis episcopum, archiepiscopum archiepiscopatus Glasguensis, dando, concedendo et disponendo illi, durantibus omnibus suae vitae diebus, praedictum archiepiscopatum Glasguensem, et integrum beneficium ejusmodi, cum omnibus et singulis terris ——— *(Here was taken in the former gift, from the figure* (6) usque ad figuram (7) *which alters in nothing, except the term or time of the entry, and name of the present archbishop, in place of the last, and then follow forth the rest after the said* (7) *figure.*

PRECEPTUM *in favorem* Joannis *Episcopi* Candidae Casae.

JACOBUS, &c. Praedilecto nostro consanguineo et familiari consiliario J. M. de A. nostri secreti sigilli custodi, salutem: Quia nos intelligentes quod episcopatus Candidae Casae, nunc in manibus nostris vacat, et ad nostram donationem et dispositionem ex obitu J. Aitken, nuper ejusdem episcopi existat, et per nostram licentiam sub nostro privato sigillo, de dato apud Whitehall tertio die Decembris ultimo elapsi, dedimus libertatem, potestatem et licentiam decano et capitulo episcopatus Candidae Casae, conveniendi, eligendi et presentandi nobis quandam personam qualificatam ejusdem dioecesis Candidae Casae episcopum fore et conformiter praedict. decanus et capitulum, virtute praedictae nostrae literae licentiae, eligerunt et presentaverunt nobis doctorem theologiae Joannem Gordon, nostrum capellanum apud New-York in America, tanquam personam idoneam et qualificatam, episcopum dicti episcopatus Candidae Casae fore prout in eorum literae testificationis, sub eorum manibus et sigillo, de dato ——— ultimo elapsi, latius continetur ideoque nominavimus, creavimus et ordinavimus, tenoreque presentium nominamus, creamus et ordinamus prenominatum Doctorem Joannem Gordon episcopum dicti episcopatus Candidae Casae, et damus, concedimus et disponimus praedicto Doctori Joanni Gordon, durantibus omnibus suae vitae diebus, praescriptum episcopatum, cum omnibus et singulis beneficiis, terris, dominiis, baroniis.

roniis, abbaciis, eccleſiis, prepoſituris, prebendariis, capellaniis, alteragiis, caſtris, turribus, fortaliciis, manerierum-locis, domibus, aedificiis, hortis, pomariis, molendinis, multuris, ſilvis, ſalmonum piſcationibus, piſcariis, annuis, redditibus, eccleſiis, decimis, rectoriis et vicariis, omnibuſque aliis decimis, magnis et minutis, feudefirme-firmis, aliiſque cenſibus et divoriis quibuſcunque, canis, cuſtumis, caſualitatibus, ſuperioritatibus, tenentibus, tenandriis, libere tenentium ſervitiis, omnium et ſingularum terrarum ad dictum epiſcopatum pertinentiis et ſpectantibus, cum advocationibus, donationibus, juribuſque patronatuum, eccleſiarum, rectoriarum, vicariarum, capellaniarum, prebendariarum, alteragiorum, beneficiorum, tam temporalitatis quam ſpiritualitatis, quorum preſentatio, quocunque tempore preterito, ad epiſcopum Candidae Caſae, uſque a fundatione ejuſdem pertinuit, ſeu ad eundem per quoſcunque illuſtriſſimorum noſtrorum progenitorum annexata fuerat, cum omnibus et ſingulis juriſdictionibus, ſuperioritatibus et officiis ad eundem ſpectantibus, ac cum omnibus honoribus, privilegiis, dignitatibus, libertatibus, praeeminentiis et immunitatibus quibuſcunque, ad dictum epiſcopatum ſpectantibus, aut in fundatione ejuſdem epiſcopatus contentis, ſeu ad eundem per quoſvis praeclariſſimorum noſtrorum progenitorum annexatis, nec non cum juriſdictione, jure et privilegio liberae capellae et cancellariae, omnibuſque aliis juriſdictionibus ad praefatum epiſcopum Candidae Caſae pertinentibus, quas praefatus quondam J. nuper ejuſdem epiſcopus, aut quovis ejus praedeceſſorum, quocunque tempore praeterito, poſſidebant et gaudebant, vel quae ad eundem uſque a fundatione ejuſdem annexatae fuerunt, ſeu quae poſtea ad praedictum epiſcopatum Candidae Caſae, pertinere et ſpectare repierentur, et ſpeciatim, abſque praejudicio generalitatis predictae, eccleſias de Drumfreis, Stepel, Gordon, aliaſque eccleſias, tam non nominatas quam nominatas, ad dictum epiſcopatum Candidae Caſae, per quondam noſtrum chariſſimum patrem, beatae memoriae, annexatas, cum advocatione, donatione et jure patronatus praedictarum eccleſiarum, cum decimis, rectoriis, vicariis feudefirme-firmis, aliiſque divoriis quibuſcunque ad eundem pertinentibus et annexatis, modo ſupra mentionato, et per dictum quondam Jacobum, nuper epiſcopum Candidae Caſae poſſeſſis, cum poteſtate praenominato Joanni, nunc epiſcopo Candidae Caſae, gaudendi, fruendi et poſſidendi dictum epiſcopatum Candidae Caſae, cum omnibus beneficiis aliiſque generaliter et ſpecialiter ſupra mentionatis, una cum omnibus et ſingulis commoditatibus, libertatibus, proficuis, aliiſque earundem pertinentiis quibuſcunque, libere, quiete, plenarie, integre, bene et in pace, abſque ulla revocatione, contradictione, impedimento, aut obſtaculo quocunque, quibuſcunque actis parliamenti, aliiſque actis, ſtatutis vel conſtitutionibus hujus regni noſtri Scotiae in contrarium factis ſeu faciendis non obſtantibus; et ſimiliter nos hanc preſentem noſtram donationem et proviſionem in proximo noſtro parliamento ſuccedente, ratificare et approbare, in verbo principis, promittimus, ac etiam, ſi opus fuerit, dictum epiſcopatum a patrimonio noſtrae coronae diſſolvere, et per preſentes mandamus dominis noſtri concilii et ſeſſionis, literas ad inſtantiam dicti Joannis, nunc Candidae Caſae epiſcopi, concedere et dirigere, pro reſpondendo et ſolvendo illi ejuſve camerariis, factoribus, ſervitoribus, aliiſque ejus nomine, omnes et ſingulas decimas, garbales, aliaſque decimas, vicarias, feudefirme-firmas, aliaſque divorias, canes, cuſtumas, caſualitates, fructus, redditus, emolumenta,

emolumenta, proficua et cenſus quoſcunque ad dictum beneficium pertinentes ſeu eidem annexatas, et hoc de proventu, et anno Domini milleſimo ſexcenteſimo et octogeſimo octavo, et annuatim et terminatim, omni tempore futuro, durantibus omnibus dicti Joannis, nunc epiſcopi Candidae Caſae, ſuae vitae diebus; at porro mandamus dominis noſtri ſecreti concilii concedere et dirigere literas ad tradendum et reddendum dicta caſtra, turres, fortalicia, columbaria, hortos, pomaria, manerierum-loca, aliaſque domos ad dictum epiſcopatum Candidae Caſae ſpectantes, prenominato Joanni nunc epiſcopo ejuſdem, vel aliis ſuo nomine infra ſpatium, ſex dierum proxime poſt mandatum, ſub pœna cornuationis; vobis igitur praecipimus et mandamus, quatenus viſis praeſentibus, praeceptum noſtrum ſub dicto noſtro ſecreto ſigillo, in debita forma, ſuper praemiſſis, conficiendum pro diplomate noſtro, noſtro ſub magno ſigillo, cancellario noſtro, in forma capellae noſtrae debite dirigatis. Datum ſub ſigneto noſtro, apud aulam noſtram de Whitehall, quarto die menſis Februarii, anno Domini milleſimo ſexcenteſimo octogeſimo octavo, ſtilo Scoticano, regnique noſtri anno tertio.

Per ſignaturam manu S. D. N. Regis ſupra ſignatam.

Nota, The former is by creation, being doctor in theology, not formerly biſhop, and vacant by the deceaſe of the laſt incumbent.

TRANSLATION *to the Biſhoprick of Orkney, in favours of Andrew late Biſhop of Dunkeld.*

OUR SOVEREIGN LORD, underſtanding the biſhoprick of Orkney to be vacant in his Majeſty's hand, and to become at his Majeſty's donation, by the deceaſe of M. late biſhop thereof; and his Majeſty having, by his letters of licence and diſpenſation, under his Majeſty's private ſignet, dated the 7th day of May laſt, given power, liberty, and licence to the dean and chapter of the biſhoprick of Orkney, to meet, elect, and preſent to his Majeſty, a perſon greatly learned, and fit to be appointed biſhop of that dioceſe, and that accordingly the ſaid dean and chapter, by virtue of his Majeſty's licence, elected and preſented to his Majeſty, Andrew late biſhop of Dunkeld, as a perſon moſt fit and qualified to be biſhop of the ſaid biſhoprick of Orkney, as the ſaid letters teſtificatory, dated the 7th day of June alſo laſt bypaſt in themſelves more copiouſly is comprehended; therefore, his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates and ordains the ſaid Andrew, late biſhop of Dunkeld, biſhop of the ſaid biſhoprick of Orkney, giving, granting and diſponing to the ſaid Andrew, late biſhop of Dunkeld, during all the days of his lifetime, the ſaid biſhoprick of Orkney, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, alterages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon-fiſhings, annualrents, churches, tithes, parſonages and vicarages, and other teinds, as well great as ſmall, feu-farm-duties, and other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, ſervices of free tenants, ſuperiorities of all

and

and ſundry lands pertaining to the ſaid biſhoprick, advocations, donations, and rights of patronages of all churches, parſonages, vicarages, chaplainries, prebendaries, alterages, and of all other benefices, as well ſpiritual as temporal, whereof the preſentation at any time heretofore pertained to the ſaid biſhoprick from the foundation thereof, or that were annexed thereto by any of his Majeſty's predeceſſors, with all and ſundry juriſdictions, ſuperiorities and offices belonging thereto, and all other honours, privileges, dignities, liberties, pre-eminencies and immunities whatſoever pertaining to the ſame, or contained in the foundation of the ſaid biſhoprick, or annexed thereto by his Majeſty's moſt illuſtrious progenitors, together with juriſdiction, right and privilege of regality, free chapel and chancellary, and all other juriſdictions pertaining to the ſaid biſhoprick of Orkney, which were poſſeſſed and enjoyed by the ſaid M. late biſhop of Orkney, or any of his predeceſſors at any time heretofore, or that were annexed thereto, even from or ſince the very foundation of the ſame, or which hereafter ſhall be found to pertain and belong to the ſaid biſhoprick, with power to the ſaid Andrew, now biſhop of Orkney, to enjoy, bruik and poſſeſs the ſaid biſhoprick of Orkney, with all benefices and others the pertinents thereof, particularly and generally above mentioned, with all and ſundry commodities, liberties, profits and other pertinents whatſoever, freely, quietly, wholly and in peace, but any revocation, contradiction, impediment or obſtacle whatſoever, any acts of parliament, and other acts, laws, ſtatutes and conſtitutions of his Majeſty's kingdom of Scotland, made or to be made in the contrary notwithſtanding; and ſicklike, his Majeſty, *in verbo principis*, faithfully promiſes to ratify and approve this preſent donation and proviſion, in the next ſucceeding parliament of the ſaid ancient kingdom, and, if need beis, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown; commanding hereby the Lords of his Majeſty's council and ſeſſion, to grant and direct letters at the inſtance of the ſaid Andrew, now biſhop of Orkney, for obeying and making payment to him, his chamberlains, factors, ſervants, and others in his name, of all and ſundry the parſonage teinds, and other tithes, feu-farms, and other farms, kains, cuſtoms, caſualties, fruits, rents, emoluments, profits and duties whatſoever, belonging to the ſaid benefice, or annexed thereto, and that for the crop and year 1688, and likeways yearly and termly in all time coming, during all the days of the ſaid Andrew biſhop of Orkney, his lifetime; and moreover, commanding hereby the Lords of his Majeſty's privy-council, to grant and direct letters for giving up and delivery of the ſaid caſtles, towers, fortalices, dovecotes, yards, manor-places, and other houſes pertaining to the ſaid biſhoprick, to the ſaid Andrew now biſhop of Orkney, or others in his name, within the ſpace of ſix days next after the charge, under the pain of horning; and that the ſaid letter of gift and proviſion be extended in the beſt form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at his Majeſty's court at Windſor, the 10th day of Auguſt 1688, and of his reign the fourth year.

This diploma was granted, and the tranſlation given upon the vacancy of the biſhoprick of Orkney, by the deceaſe of the laſt incumbent.

TRANSLATION

TRANSLATION *to the Biſhoprick of Aberdeen, and being Chancellor of the Univerſity thereof, in favours of George late Biſhop of Brechin.*

OUR SOVEREIGN LORD, underſtanding that the biſhoprick of Aberdeen, within his Majeſty's ancient kingdom of Scotland, is now vacant in his Majeſty's hands, and at his gift and diſpoſition, by the deceaſe of Patrick, laſt biſhop of the ſaid biſhoprick, and conſidering how great neceſſity there is to ſupply the ſaid place and office, his Majeſty, by his letter of licence under his private ſignet, of the date the —— day of ——, gave full power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Aberdeen, to convene, elect and preſent to his Majeſty a perſon fit and qualified for the ſaid office, and accordingly, the ſaid dean and chapter, by their anſwer and return, under their hands, recommended and preſented to his Majeſty, the reverend father in God, George biſhop of Brechin, as a perſon moſt fit and qualified for the ſaid burden and charge; therefore, Our ſaid Sovereign Lord, of his certain knowledge, regal authority, and prerogative royal, has tranſlated and tranſported, and by theſe preſents, tranſlates and tranſports the ſaid George biſhop of Brechin, from the ſaid biſhoprick of Brechin, to the ſaid biſhoprick of Aberdeen; and for that effect, his Majeſty, for him and his royal ſucceſſors, hereby nominates, creates and ordains the ſaid George, during all the days of his lifetime, biſhop of Aberdeen, and chancellor of the univerſity thereof, giving, granting and diſponing to the ſaid George, during all the days of his ſaid lifetime, the ſaid biſhoprick and office of chancellary of the ſaid univerſity, with all and ſundry lands, lordſhips, baronies, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, wards, iſles, mills, mill lands, multures, and their ſequels, fiſhings as well of ſalmon as other fiſhings, benefices, teinds, parſonages and vicarages, ſuperiorities, pre-eminencies, privileges, liberties, immunities, tenants, tenandries, and ſervices of free tenants, advocations, donations, and rights of patronages of all churches, rectories, vicarages, chaplainries, prebendaries, altarages, and of all other benefices as well ſpiritual as temporal, with the feu-duties, yearly annuities and duties, fees, penſions, fruits, rents, caſualties, profits and emoluments whatſoever, as well not named as named, belonging and appertaining to the ſaid biſhoprick, and chancellor of the ſaid univerſity of Aberdeen, or any ways annexed thereto, together with the privilege, right and juriſdiction of free regality, free chapel and chancellary within the haill bounds of the ſaid biſhoprick, with all and ſundry other privileges, liberties, commodities, dignities, immunities, fruits, rents, duties and caſualties whatſoever, pertaining and belonging thereto in any time bygone, from the firſt foundation of the ſaid biſhoprick, or which ſhall be found to appertain and belong to the ſame in any time coming, wherever they are or ly, in whatſoever place within the ſaid kingdom of Scotland, with power to the ſaid George now biſhop of Aberdeen, to bruik, enjoy, exerce, poſſeſs, and diſpone thereupon at his pleaſure, ſicklike, and as freely in all reſpects and conditions, as any other biſhop in any time bygone exerced, or for the future may exerce, and that as to the half of this inſtant year 1682, and all other years and

terms in time coming, during all the days of his ſaid lifetime; diſpenſing always with the generality of theſe preſents, as if all and ſundry privileges, liberties, rents, duties, caſualties and emoluments thereof whatſoever, were herein named, and at length inſert and enumerated, notwithſtanding of any acts of parliament, and other acts, laws, ſtatutes and conſtitutions of the ſaid kingdom of Scotland, made or to be made in the contrary, or of all other exceptions; renouncing, transferring and overgiving the ſame, by theſe preſents, for his Majeſty and his royal ſucceſſors, to and in favours of the ſaid biſhop, during all the days of his lifetime, with all action, inſtance, proceſs and execution whatſoever, competent, or that may be competent thereupon, and with ſupplement of all other defects and imperfections whatſoever, which his Majeſty will have as for expreſſed in theſe preſents; and his Majeſty hereby requires and commands all and ſundry proprietors, heritors, feuars, conjunct fiars, occupiers, tenants, tackſmen and poſſeſſors of the lands, teinds, fiſhings, and others above written, pertaining to the ſaid biſhoprick and chancellary, and all others liable in payment, to readily anſwer, obey, and make payment to the ſaid biſhop, and to his chamberlains and factors, of the ſaid fruits, rents, feu-duties, duties and caſualties thereof whatſoever, uſed and wont to be paid, and that as to the laſt half of this inſtant year 1682, and yearly and termly in time coming, during all the days of his lifetime; and ſicklike, his Majeſty hereby commands the Lords of his Majeſty's ſecret council, exchequer, and of his Majeſty's college of juſtice within the ſaid kingdom, to grant and direct letters of horning, upon ten days charge, and all other letters neceſſary, at the inſtance of the ſaid reverend father, or of his chamberlains, againſt the forenamed perſons, to the effect above mentioned; and in like manner, his Majeſty hereby ordains the Lords of his Majeſty's ſecret council, to grant letters on ſix days charge, for giving up, and delivery to the ſaid biſhop and his foreſaids, of the caſtles, towers, fortalices, manor-places, edifices, houſes, yards, and others pertaining to the ſaid biſhoprick and chancellary, as becomes. And his Majeſty faithfully promiſes, *in verbo principis*, to cauſe this his Majeſty's donation and tranſlation be ratified by his Majeſty, with conſent of his eſtates of parliament, in the ſubſequent ſeſſion of parliament, and, if need beis, to diſſolve the ſaid biſhoprick, with the pertinents, from the patrimony of his Majeſty's crown; and ordains theſe preſents to be extended in ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at

This diploma was granted, and the tranſlation occaſioned by the deceaſe of the laſt incumbent.

TRANSLATION

TRANSLATION *to the Biſhoprick of* Murray, *in favours of* Colin *late Biſhop of* Argyle.

OUR SOVEREIGN LORD, underſtanding that the biſhoprick of Murray is now vacant in his Majeſty's hands, and at his Majeſty's donation, by tranſlation of the late biſhop thereof, and that his Majeſty, by his licentiatory letter under his private ſignet, of the date the ſeventh day of February laſt, gave power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Murray, to convene and elect a certain fit and qualified perſon to be biſhop of the ſaid dioceſe, and to preſent him to his Majeſty; and that the ſaid dean and chapter, by virtue of the ſaid licence, elected and preſented to his Majeſty, the reverend father in God, Colin late biſhop of Argyle, as a perſon moſt fit and qualified to be biſhop of the biſhoprick of Murray, as their letters of teſtification and report, under their hands, more fully proport; therefore, his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates, and ordains the ſaid reverend father in God, Colin late biſhop of Argyle, biſhop of the ſaid biſhoprick of Murray, giving, granting and diſponing, likeas his Majeſty by theſe preſents, gives, grants and diſpones to the ſaid reverend father in God, Colin late biſhop of Argyle, during all the days of his natural lifetime, the foreſaid biſhoprick of Murray, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, altarages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon-fiſhings, and other fiſhings, yearly rents, teinds, parſonages and vicarages, and all other teinds, as well great as ſmall, feu-duties, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, ſervices of free tenants of all and ſundry lands belonging to the ſaid biſhoprick, advocations, donations, and rights of patronages of all churches, rectories, vicarages, chaplainries, prebendaries, altarages, and of all other benefices, as well ſpiritual as temporal, whereof the right of preſentation belonged to the ſaid biſhoprick of Murray, at any time bygone, ſince the foundation or erection of the ſaid biſhoprick, or which were thereto annexed by any of his Majeſty's moſt noble progenitors; together with all and ſundry juriſdictions, ſuperiorities, and offices belonging to the ſaid biſhoprick, and all other honours, privileges, dignities, liberties, pre-eminencies and immunities belonging to the ſame biſhoprick, or contained in the foundation thereof, or by any of his Majeſty's predeceſſors annexed thereto; with juriſdiction, right and privilege of free chapel and chancellary, and of all other juriſdictions pertaining to the ſaid biſhoprick of Murray, and which by the late biſhop thereof, or any of his predeceſſors, were poſſeſſed and enjoyed at any time bygone, or which were annexed thereto, ſince the firſt foundation of the ſame, or which hereafter ſhall be found to appertain and belong to the ſaid biſhoprick of Murray; with power to the ſaid Colin now biſhop of Murray, to poſſeſs, bruik and enjoy the ſaid biſhoprick of Murray, and all benefices, and others particularly and generally above mentioned belonging thereto, together with all and ſundry commodities, liberties, profits and

other pertinents of the ſame whatſoever, freely, quietly, wholly, well and in peace, but any revocation, contradiction, or obſtacle whatſoever, any acts of parliament, and other acts, ſtatutes or conſtitutions of his Majeſty's kingdom of Scotland, made or to be made in the contrary notwithſtanding; commanding hereby the Lords of his Majeſty's council and ſeſſion, to grant and direct his Majeſty's other letters at the inſtance of the ſaid Colin, now biſhop of Murray, for payment to him, his chamberlains, factors, ſervants, and others in his name, having his power, of all and ſundry the parſonage-teinds, and other teinds, feu-farm duties, and other duties, kains, cuſtoms, caſualties, fruits, rents, emoluments, profits and duties whatſoever annexed, pertaining and belonging to the ſaid benefices, and that for and of the crop and year of God 1680; and ſicklike yearly and termly in all time coming, during all the days of the ſaid Colin, now biſhop of Murray, his natural lifetime; as alſo hereby ordains the Lords of his Majeſty's privy-council, to grant and direct letters at the inſtance of the ſaid Colin, now biſhop of the ſaid biſhoprick, for giving up and delivering to him, and others in his name, of the caſtles, towers, palaces, fortalices, manor-places, yards, dovecotes, and other houſes above written, belonging to the ſaid biſhoprick, within the ſpace of ſix days next after the charge, under the pain of horning. And his Majeſty, *in verbo principis*, promiſes to ratify and approve this preſent donation and proviſion in his next parliament, and, if need beis, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown; and ordains theſe preſents to be extended in moſt ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at

This diploma proceeds upon a vacancy, by tranſlation of the laſt incumbent from Murray to Galloway.

TRANSLATION *to the Biſhoprick of* Roſs, *in favours of* James *late Biſhop of* Dunblane.

OUR SOVEREIGN LORD, underſtanding the biſhoprick of Roſs to be now vacant in his Majeſty's hands, and at his royal diſpoſition, by the deceaſe of Alexander late biſhop thereof, and his Majeſty having, by his letter of licence under his Majeſty's private ſignet, of the date the —— day of —— laſt bypaſt, given power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Roſs, to meet and elect a perſon fit and qualified to undergo the epiſcopal gift and offices in that dioceſe, and preſent him to his Majeſty; and the ſaid dean and chapter having by their letters teſtificatory, and by virtue of his Majeſty's licence, elected James then biſhop of Dunblane, and preſented him to his Majeſty, as a perſon moſt fit and qualified to undergo the epiſcopal gift and office of the ſaid biſhoprick of Roſs, as in the ſaid letters teſtificatory, under their hands and ſeals, more copiouſly is related; therefore, his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates and ordains the ſaid James,

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now biſhop of Dunblane, biſhop of the ſaid biſhoprick of Roſs, and gives, grants and diſpones to the ſaid James, now biſhop of Roſs, during all the days of his natural life, the ſaid biſhoprick, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, altarages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon-fiſhings, and other fiſhings, annualrents, churches, tithes, parſonages and vicarages, and other teinds, as well great as ſmall, feu-farm duties, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, and ſervices of free tenants, ſuperiorities of all and ſundry the lands pertaining to the ſaid biſhoprick, advocations, donations, and rights of patronages of all churches, parſonages, vicarages, chaplainries, prebendaries, altarages, and of all other benefices, as well ſpirituals as temporals, whereof the preſentation at any time bygone, even before the reformation of religion, or thereafter, or from the foundation and erection of the ſaid biſhoprick pertained to the ſaid biſhop of Roſs, or were given or annexed to the ſaid biſhoprick, by his Majeſty's illuſtrious father of bleſſed memory, or any other of his Majeſty's moſt ſerene progenitors, with all and ſundry juriſdictions, ſuperiorities, and other offices belonging thereto, and with all other honours, privileges, dignities, pre-eminencies and immunities whatſoever pertaining to the ſaid biſhoprick, by the firſt foundation thereof, or were thereafter annexed to the ſame, and that were poſſeſſed by the ſaid deceaſed Alexander late biſhop of Roſs, or any of his predeceſſors, at any time heretofore, or that thereafter ſhall be known to appertain to the ſaid biſhoprick, together with the juriſdiction, right and privilege of regality, free chapel and chancellary, and all other honours, dignities, liberties, privileges and juriſdictions belonging to the ſaid biſhoprick of Roſs, either by firſt erection thereof, or that were thereafter annexed thereto, with power to the ſaid James now biſhop of Roſs, to enjoy, bruik and poſſeſs the ſaid biſhoprick of Roſs, and all benefices and juriſdictions of the ſame above ſpecified, with all and ſundry other lands, lordſhips, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, woods, fiſhings, as well ſalmon as other fiſhings, advocations, donations, and rights of patronages, juriſdictions, regalities, liberties, privileges, honours, dignities, pre-eminencies, immunities, and others pertaining to the ſaid biſhoprick of Roſs, with power alſo to the ſaid James now biſhop of Roſs, to intromit with, receive, uplift, and diſpone all and ſundry teinds, as well parſonage as vicarage, feu-farm duties, and other duties, fruits, annualrents, emoluments, teinds, cuſtoms, caſualties, profits and duties, as well of the principality as temporality pertaining to the ſaid biſhoprick, or annexed to the benefice thereof, or to the juriſdictions ſpecified and contained in the foundation of the ſame, with all and ſundry commodities, liberties, profits, eaſements, and other pertinents whatſoever, freely, quietly, wholly and in peace, but any revocation, contradiction, impediment, or obſtacle whatſoever, any act of parliament, and other laws, ſtatutes and conſtitutions of his Majeſty's kingdom of Scotland, made or to be made in the contrary, notwithſtanding: Moreover, his Majeſty promiſes, *in verbo principis*, to ratify and approve this preſent donation and proviſion, in this current or ſubſequent parliament of the ſaid kingdom, and, if need beis, to diſſolve the ſaid biſhoprick from

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the patrimony of his Majeſty's crown; and ſicklike, his Majeſty commands the Lords of his council and ſeſſion, to grant and direct letters at the inſtance of the ſaid James now biſhop of Roſs, for readily obeying and payment making to him, his chamberlains, factors, ſervants, and others in his name, of all and ſundry the parſonage-teinds, and other teinds, feu-farm duties, and other duties, kains, cuſtoms, caſualties, fruits, annualrents, emoluments, profits and duties whatſoever, pertaining to the ſaid biſhoprick, or that were annexed thereto, and that of the crop and year 1684, and yearly and termly in all time coming, during all the days of the ſaid James now biſhop of Roſs his natural lifetime, upon a ſimple charge of ten days allenarly; and in like manner, his Majeſty hereby commands the Lords of his Majeſty's privy council, to grant and direct letters for giving up and delivery to the ſaid James now biſhop of Roſs, and others in his name, all the ſaid caſtles, towers, palaces, fortalices, yards, dovecotes, manor-places, and other houſes belonging to the ſaid biſhoprick of Roſs, within the ſpace of ſix days next after the charge, under the pain of horning; and that the ſaid letter of gift and proviſion be extended in the moſt full and ample form, with all clauſes needful, and that precepts be orderly directed hereupon, in form as effeirs. Given at his Majeſty's court at Windſor-caſtle, the 14th day of April 1684, and of his Majeſty's reign the thirty-ſixth year.

Nota, This vacancy fell out by the deceaſe of the laſt incumbent.

TRANSLATION *in favours of* Robert *late Biſhop of* Brichen, *to the Biſhoprick of* Dunblane, *upon the laſt Incumbent his going to* Roſs.

OUR SOVEREIGN LORD, underſtanding the biſhoprick of Dunblane to be now vacant in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by tranſlation of James late biſhop thereof; and his Majeſty having, by his letter of licence, under his private ſignet, dated the 22d day of October laſt paſt, given power, liberty and licence to the dean and chapter of the ſaid biſhoprick, to convene and elect a perſon fit and qualified to undergo the office and epiſcopal charge in the ſaid dioceſe, and to preſent him to his Majeſty; and the ſaid dean and chapter having accordingly (by virtue of his Majeſty's letter of licence aforeſaid) elected and preſented to his Majeſty Robert biſhop of Brechin, as a perſon moſt fit and able, and qualified to undergo the ſaid holy charge and function, as in their letter teſtificatory, under their hands and ſeal, more fully is contained: Therefore his Majeſty has nominated, created and ordained, and, by theſe preſents, nominates, creates and ordains the ſaid Robert biſhop of Brechin, biſhop of the ſaid biſhoprick of Dunblane, and gives, grants and diſpones to the ſaid Robert, now biſhop of Dunblane, during all the days of his natural life, the ſaid biſhoprick of Dunblane, with all and ſundry benefices belonging thereto, together with all and ſundry lands, lordſhips, baronies, abbacies,

cies, provoſtries, churches, prebendaries, chaplainries, altarages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon fiſhings, and other fiſhings, and all annualrents, churches, parſonage tithes, and other tithes, as well great as ſmall, feu-farm-duties, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, and ſervices of free tenants, ſuperiorities of all and ſundry lands belonging to the ſaid biſhoprick, advocations, donations and rights of patronages of churches, parſonages, vicarages, chaplainries, prebendaries, altarages, and of all other benefices, as well of ſpirituals as temporals, whereof the preſentation, at any time bygone before the reformation of religion, or thereafter pertained to the biſhoprick of Dunblane, or contained in the foundation and erection thereof, or were given or annexed thereto by his Majeſty's moſt ſerene father, of bleſſed memory, or by any others his Majeſty's moſt illuſtrious progenitors; with all and ſundry juriſdictions, ſuperiorities, and other offices belonging to the ſame, and all other honours, privileges, dignities, pre-eminencies and immunities whatſoever, pertaining to the ſaid biſhoprick, by the firſt foundation thereof, or which afterwards were annexed thereto, and were poſſeſſed by the ſaid James late biſhop of Dunblane, or any of his predeceſſors, at any time bygone, or which hereafter ſhall be known to appertain and belong to the ſaid biſhoprick, together with the juriſdiction, right and privilege of regality, free chapel and chancellary, and all other honours, dignities, liberties, privileges and juriſdictions pertaining to the ſaid biſhoprick of Dunblane, by the firſt erection thereof, or afterwards annexed thereto; with full power to the ſaid Robert, now biſhop of Dunblane, to enjoy, bruik and poſſeſs the ſaid biſhoprick of Dunblane, and all benefices and juriſdictions of the ſame above written, and with all and ſundry lands, lordſhips, caſtles, towers, fortalices, manor-places, yards, orchards, mills, woods, fiſhings, as well ſalmon as other fiſhings, advocations, donations, rights of patronages, juriſdictions, regalities, liberties, privileges, honours, dignities, pre-eminencies, immunities, and others belonging to the ſaid biſhoprick of Dunblane; with full power alſo to the ſaid Robert, now biſhop of Dunblane, to intromit with, receive, uplift and diſpone upon all and ſundry the tithes, as well parſonage as vicarage, feu-farm-duties, and other duties, fruits, rents, emoluments, teinds, cuſtoms, caſualties, profits and duties, as well ſpirituality as temporality, pertaining to the ſaid biſhoprick of Dunblane, or annexed to the benefice thereof, or belonging to the juriſdictions ſpecified and contained in the foundation of the ſame; with all and ſundry commodities, liberties, profits, eaſements and other pertinents whatſoever, freely, quietly, wholly and in peace, without any revocation, contradiction, impediment or obſtacle whatſoever, any act of parliament, and other laws, ſtatutes and conſtitutions of his Majeſty's ancient kingdom of Scotland, made, or to be made in the contrary notwithſtanding: Moreover, his Majeſty promiſes, *in verbo principis*, to ratify and approve this preſent donation and proviſion, in this his Majeſty's current or ſubſequent parliament of the ſaid kingdom, and, if need beis, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown; and likeways his Majeſty commands the Lords of his Majeſty's council and ſeſſion, to grant and direct letters at the

inſtance

inſtance of the ſaid Robert, now biſhop of Dunblane, for obeying him, his chamberlains, factors, ſervants, and others in his name, of all and ſundry the parſonage tithes, and other tithes, feu-farm-duties, and other annualrents, kains, cuſtoms, caſualties, fruits, rents, emoluments, profits and duties whatſoever, annexed to the ſaid biſhoprick of Dunblane, or benefice thereof, and belonging thereto, and that of the crop and year 1684; and ſicklike yearly and termly in all time coming, during all the days of the ſaid reverend father in God Robert, now biſhop of Dunblane, his natural lifetime, upon a ſimple charge of ten days allenarly: And in like manner, his Majeſty hereby commands the Lords of his Majeſty's privy council to grant and direct letters for giving up and delivery to the ſaid Robert, now biſhop of Dunblane, and others in his name, of all the foreſaid caſtles, towers, palaces, fortalices, yards, dove-cots, manor-places, and other houſes pertaining to the ſaid biſhoprick of Dunblane, within the ſpace of ſix days next after the charge, under pain of horning: And, *laſtly*, His Majeſty ordains the ſaid gift and proviſion to be extended in the beſt and moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. Given at his Majeſty's court at Windſor the 23d day of May 1684, and of his Majeſty's reign the 35th year.

Nota, This vacancy proceeded upon the late incumbent his being tranſlated to the ſee of Roſs.

TRANSLATION *to the Biſhoprick of* Caithneſs, *in favours of* Andrew *Biſhop of the* Iſles, *called* Soderenſis.

OUR SOVEREIGN LORD, underſtanding the biſhoprick of Caithneſs to be now vacant in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by the deceaſe of Patrick late biſhop thereof, and becauſe his Majeſty, by his letters of licence, under his Majeſty's private ſignet, of the date the 12th day of November laſt, gave power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Caithneſs to meet, elect and preſent to his Majeſty a perſon endued with all gifts and qualifications, to undergo the office of biſhop of Caithneſs; and accordingly, the ſaid dean and chapter, by virtue of his Majeſty's licence aforeſaid, elected and preſented to his Majeſty his well-beloved Andrew, late biſhop of the Iſles, as a man eminently qualified for the function of the ſaid biſhoprick of Caithneſs, as their teſtimony, ſubſcribed with their hands, more fully proports: Therefore his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates and ordains the ſaid Andrew, late biſhop of the Iſles, now biſhop of the ſaid biſhoprick of Caithneſs, and has given, granted and diſponed, and hereby gives, grants and diſpones to the ſaid Andrew, late biſhop of the Iſles, during all the days of his lifetime, the foreſaid biſhoprick of Caithneſs, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, altarages, caſtles, towers,

towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon fiſhings, and other fiſhings, annualrents, churches, parſonage and vicarage teinds, and all other teinds, as well great as ſmall, feu-farm-duties, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, and ſervices of free tenants, ſuperiorities of all and ſundry lands pertaining to the ſaid biſhoprick, advocations, donations, rights of patronages of all churches, parſonages, vicarages, chaplainries, prebendaries, altarages, and of all other benefices, as well ſpiritual as temporal, whereof the preſentation, at any time bygone, pertained to the ſaid biſhop, from the foundation of the ſaid biſhoprick, or were annexed thereto by any of his Majeſty's moſt illuſtrious progenitors; with all and ſundry juriſdictions, ſuperiorities, and offices pertaining thereto, and with all other honours, privileges, dignities, liberties, preeminencies and immunities whatſoever, pertaining to the ſame, or contained in the foundations of the ſaid biſhoprick, or annexed thereto by any of his Majeſty's moſt ſerene predeceſſors; with juriſdiction, right and privilege of free chapel and chancellary, and with all other juriſdictions pertaining to the ſaid biſhoprick of Caithneſs, poſſeſſed by the ſaid deceaſed Patrick late biſhop thereof, or by any of his predeceſſors, in any time bygone, or were annexed thereto from the firſt foundation of the ſame, or that hereafter ſhall be known to pertain and belong to the ſaid biſhoprick; with power to the ſaid Andrew biſhop of Caithneſs, to enjoy, occupy and poſſeſs the ſaid biſhoprick of Caithneſs, and all benefices, and others particularly and generally above written, pertaining and belonging to the ſaid biſhoprick, together with all and ſundry commodities, liberties, profits, and other pertinents whatſoever, freely, quietly, wholly and in peace, but revocation, contradiction, impediment or obſtacle whatſoever, any acts of parliament, and other acts, laws, ſtatutes or conſtitutions of the kingdom of Scotland, made, or to be made in the contrary notwithſtanding: As alſo, his Majeſty, *in verbo principis*, promiſes to ratify his Majeſty's donation and proviſion aforeſaid, in his Majeſty's next parliament of the ſaid kingdom, and if need beis, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown: Moreover, commanding hereby the Lords of his Majeſty's council and ſeſſion, to direct his Majeſty's letters, at the inſtance of the ſaid Andrew now biſhop of Caithneſs, to readily anſwer and make payment to him, and to his chamberlains, factors, ſervants, and others in his name, of all and ſundry the parſonage-teinds, and other teinds, feu-farm-duties, and other duties, kains, cuſtoms, caſualties, fruits, emoluments, profits and duties whatſoever, pertaining to the ſaid benefice, and annexed thereto, and that for the duties of the year 1680 inſtant, and ſicklike, of all years and terms thereafter, during all the days of the ſaid Andrew, now biſhop of Caithneſs, his lifetime: And in like manner, his Majeſty hereby commands the Lords of his Majeſty's privy council to grant and direct his Majeſty's letters, for giving up and delivering of the ſaid caſtles, towers, fortalices, dove-cots, yards, manor-places, and other houſes pertaining to the ſaid biſhoprick of Caithneſs, to the ſaid Andrew, now biſhop thereof, or others in his name, within the ſpace of ſix days after the ſaid charge, under the pain of rebellion, and being put to his Majeſty's horn:

horn: And his Majeſty ordains the ſaid donation and proviſion to be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

This tranſlation proceeds upon a vacancy, by the deceaſe of the laſt incumbent.

GIFT *and* PROVISION *of the ſaid Biſhoprick of the* Iſles, *called* Sodorenſis, *in favours of* Archibald *Biſhop of the* Iſles, *upon the former Tranſlation.*

OUR SOVEREIGN LORD, underſtanding that the biſhoprick of the Iſles is now vacant in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by the tranſplantation of the right reverend father in God, Andrew late biſhop thereof, to the biſhoprick of Caithneſs; and becauſe his Majeſty, by his letters of licence, under his Majeſty's private ſignet, of the date the —— day of —— laſt, gave power, liberty and licence to the dean and chapter of the ſaid biſhoprick of the Iſles, to meet and elect a perſon ſufficiently qualified to undergo the office of biſhop of the Iſles, and to preſent him to his Majeſty; and accordingly, the ſaid dean and chapter, by virtue of his Majeſty's licence aforeſaid, elected and preſented to his Majeſty Mr. Archibald —— doctor in divinity, as a man eminently qualified for the function and charge of the ſaid biſhoprick of the Iſles, as their teſtimony, ſubſcribed with their hands, and under their ſeal, more fully proports: Therefore, his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates and ordains the ſaid Archibald —— doctor in divinity, biſhop of the ſaid biſhoprick of the Iſles; and has given, granted and diſponed, and hereby gives, grants and diſpones to the ſaid Archibald, during all the days of his lifetime, the foreſaid biſhoprick of the Iſles, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, altarages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon fiſhings, and other fiſhings, annualrents, churches, parſonage and vicarage teinds, and all other teinds, as well great as ſmall, feu-farm-duties, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, and ſervices of free tenants, ſuperiorities of all and ſundry lands pertaining to the ſaid biſhoprick, advocations, donations, and rights of patronages of all churches, parſonages, vicarages, chaplainries, prebendaries, altarages, and of all other benefices, as well ſpiritual as temporal, whereof the preſentation, at any time bygone, pertained to the ſaid biſhop, from the foundation of the ſaid biſhoprick, or were annexed thereto by any of his Majeſty's moſt illuſtrious progenitors; with all and ſundry juriſdictions, ſuperiorities, and offices pertaining thereto, and with all other honours, privileges, dignities, liberties, pre-eminencies, and immunities whatſoever pertaining thereto, or contained in the foundation of the ſaid biſhoprick,

biſhoprick, or annexed to the ſame by any of his Majeſty's moſt ſerene predeceſſors; with juriſdiction, right and privilege of free chapel and chancellary, and with all other juriſdictions pertaining to the ſaid biſhoprick of the Iſles, poſſeſſed by the ſaid Andrew late biſhop thereof, or by any of his predeceſſors at any time bygone, or were annexed thereto from the firſt foundation of the ſame, or that hereafter ſhall be known to appertain and belong to the ſaid biſhoprick of the Iſles; with power to the ſaid Archibald, now biſhop of the Iſles, to enjoy, bruik and poſſeſs the ſaid biſhoprick of the Iſles, and all benefices particularly and generally above written, pertaining and belonging to the ſame, together with all and ſundry commodities, liberties, profits, and other pertinents whatſoever, freely, quietly, wholly and in peace, but revocation, contradiction, impediment or obſtacle whatſoever, notwithſtanding of any acts of parliament, and other acts, laws, ſtatutes and conſtitutions of his Majeſty's kingdom of Scotland, made, or to be made in the contrary: Moreover, his Majeſty, *in verbo principis*, promiſes to ratify and approve this preſent gift and proviſion in his Majeſty's next parliament of the ſaid kingdom, and if need be, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown: And ſicklike, his Majeſty hereby commands the Lords of his Majeſty's council and ſeſſion, to direct his Majeſty's letters, at the inſtance of the ſaid Archibald, now biſhop of the Iſles, for readily anſwering and making payment to him, his chamberlains, factors, and others in his name, of all and ſundry the parſonage-teinds, and other teinds, feu-farm-duties, and other duties, kains, cuſtoms, caſualties, fruits, rents, emoluments, and profits whatſoever belonging to the ſaid benefices, and that for the year and duties 1680 inſtant, and ſicklike yearly and termly in time coming, during all the days of the ſaid Archibald, now biſhop of the Iſles, his lifetime: And in like manner, his Majeſty hereby commands the Lords of his Majeſty's privy council, to grant and direct his Majeſty's letters, for giving up and delivery of the ſaid caſtles, towers, fortalices, dove-cots, yards, manor-places, and other houſes pertaining to the ſaid biſhoprick of the Iſles, to the ſaid Archibald, now biſhop thereof, or others in his name, within the ſpace of ſix days next after the charge, under the pain of rebellion, and being denounced to the horn: And, *laſtly*, his Majeſty ordains the ſaid gift and proviſion to be extended in moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. *Given at*

This gift is by a new creation, the perſon preſented not being formerly biſhop, and likeways upon vacancy by the tranſlation of the former biſhop to Caithneſs.

GIFT *and* PROVISION *of the Biſhoprick of* Dunkeld, *in favours of Mr.* John Hamilton *Parſon of* Reſtalrig, *and Miniſter at* South-Leith.

OUR SOVEREIGN LORD, underſtanding that the biſhoprick of Dunkeld is vacant in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by tranſlation of the right reverend father in God, Andrew late biſhop thereof, to be biſhop of Orkney; and that his Majeſty, by his letters of licence, under his Majeſty's private ſignet, dated the —— day of —— laſt bypaſt, having given power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Dunkeld, to convene and elect a perſon fit and qualified to undergo the office of biſhop of the ſaid dioceſe of Dunkeld, and preſent him to his Majeſty; and that accordingly, the ſaid dean and chapter, by virtue of his Majeſty's licence aforeſaid, elected and preſented to his Majeſty Mr. John Hamilton parſon of Reſtalrig, and miniſter at South-Leith, as a perſon ſufficiently qualified for the function and office of the ſaid biſhoprick of Dunkeld, as their teſtimony, ſubſcribed with their hands, and under their ſeal, more fully proports: Therefore his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates and ordains the ſaid John Hamilton biſhop of the ſaid biſhoprick of Dunkeld, and gives, grants and diſpones to him, during all the days of his lifetime, the ſaid biſhoprick of Dunkeld, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, altarages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon fiſhings and other fiſhings, annualrents, churches, parſonage and vicarage-teinds, and all other teinds, as well great as ſmall, feu-farm-duties, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, and ſervices of free tenants, ſuperiorities of all and ſundry lands pertaining to the ſaid biſhoprick, advocations, donations, and rights of patronages of all churches, parſonages, vicarges, chaplainries, prebendaries, altarages, and of all other benefices, as well ſpirituals as temporals, whereof the preſentation, at any time bypaſt, from the foundation of the ſaid biſhoprick pertained to the ſaid biſhop thereof, or that were annexed thereto by any of his Majeſty's illuſtrious progenitors; with all and ſundry juriſdictions, ſuperiorities, and offices belonging to the ſame, and with all other honours, privileges, dignities, liberties, pre-eminencies and immunities whatſoever belonging to the ſame, or contained in the foundations of the ſaid biſhoprick, or that were thereafter annexed thereto by any of his Majeſty's moſt ſerene predeceſſors; with juriſdiction, right and privilege of free chapel and chancellary, and with all other juriſdictions pertaining to the ſaid biſhoprick of Dunkeld, poſſeſſed by the ſaid Andrew late biſhop thereof, or by any of his predeceſſors, at any time bygone, or annexed thereto from the firſt foundation of the ſame, or that hereafter ſhall be found to appertain and belong to the ſaid biſhoprick of Dunkeld; with power to the ſaid John Hamilton, now biſhop of Dunkeld, to enjoy, bruik and poſſeſs the ſaid biſhoprick of Dunkeld, and all benefices, and all others particularly and generally above ſpecificed, pertaining

and

and belonging thereto, together with all and ſundry commodities, liberties, profits, and other pertinents whatſoever, freely, quietly, wholly and in peace, but any revocation, contradiction, impediment, or obſtacle whatſoever, any act of parliament, and other laws, ſtatutes and conſtitutions of his Majeſty's kingdom of Scotland, made, or to be made in the contrary notwithſtanding: Moreover, his Majeſty, *in verbo principis*, hereby promiſes to ratify and approve this donation and proviſion in his Majeſty's next parliament of the ſaid kingdom, and if need beis, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown; and ſicklike, his Majeſty hereby ordains the Lords of his Majeſty's council and ſeſſion, to direct his Majeſty's letters, at the inſtance of the ſaid John Hamilton, now biſhop of Dunkeld, for readily obeying and payment making to him, his chamberlains, factors, ſervants, and others in his name, of all and ſundry the parſonage-teinds, and other teinds, feu-farm-duties, and other rents, kains, cuſtoms, caſualties, fruits, emoluments, profits, and duties whatſoever, pertaining to the ſaid benefice, and thereto annexed, and that for the crop 1688 years inſtant, and ſicklike, yearly and termly in time coming, during all the days of the ſaid John Hamilton, now biſhop of Dunkeld, his lifetime: And in like manner, commands the Lords of his Majeſty's privy council, to grant and direct his Majeſty's letters, for giving up and delivery of the ſaid caſtles, towers, fortalices, dove-cots, yards, manor-places, and other houſes pertaining to the ſaid biſhoprick of Dunkeld, to the ſaid John Hamilton, now biſhop thereof, or others in his name, within the ſpace of ſix days next after the charge, under the pain of rebellion, and being denounced to his Majeſty's horn. And, *laſtly*, his Majeſty ordains this preſent gift and proviſion to be further extended in the beſt and moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. Given at his Majeſty's court at Windſor the —— day of —— 1688, and of his reign the fourth year.

This diploma was granted by new creation, not being formerly biſhop, and upon the late incumbent's being tranſlated to Orkney.

GIFT *and* PROVISION *of the Biſhoprick of* Argyle *(called* Liſmorenſis) *in favours of Mr.* Hector M'Lean, *late Miniſter at* Eaſtwood, *upon the late Incumbent his being tranſlated to* Murray.

OUR SOVEREIGN LORD, underſtanding that the biſhoprick of Liſmore is now vacant in his Majeſty's hands, and at his gift and diſpoſition, by the tranſlation of the laſt biſhop thereof; and that his Majeſty having, by his Majeſty's letter of licence, under his private ſignet, of the date the 17th day of March laſt bypaſt, given power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Liſmore, to convene, elect and preſent to his Majeſty a perſon ſufficiently qualified and fit to undergo the office of biſhop of the ſaid dioceſe,

ceſe, and that the ſaid dean and chapter, by virtue, and conform to the ſaid letters, elected and preſented to his Majeſty Mr. Hector M'Lean, late miniſter at Eaſtwood, as a perſon moſt fit and qualified for the ſaid office and function of biſhop of the ſaid biſhoprick of Liſmore, as in their letters of atteſtation, under their hands and ſeal, more fully is contained: Therefore, his Majeſty has nominated, created and ordained, and by theſe preſents, nominates, creates and ordains the ſaid Mr. Hector M'Lean biſhop of Liſmore (otherways called Argyle), giving, granting and diſponing to the ſaid Hector M'Lean, during all the days of his lifetime, the ſaid biſhoprick, with all and ſundry benefices, lands, lordſhips, baronies, abbacies, churches, provoſtries, prebendaries, chaplainries, altarages, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, multures, woods, ſalmon fiſhings, and other fiſhings, annualrents, churches, teinds, parſonages and vicarages, ſuperiorities, and all other teinds, as well great as ſmall, feu-farms, and all other duties whatſoever, kains, cuſtoms, caſualties, ſuperiorities, tenants, tenandries, ſervices of free tenants, ſuperiorities of all and ſundry lands pertaining to the ſaid biſhoprick, advocations, donations, and rights of patronages of all churches, parſonages, vicarages, chaplainries, prebendaries, altarages, and of all other benefices, as well ſpiritual as temporal, whereof the preſentation, in any time bygone, belong to the biſhoprick of Liſmore, from the foundation thereof, or were annexed thereto by any of his Majeſty's moſt ſerene predeceſſors; with all and ſundry juriſdictions, ſuperiorities and offices belonging to the ſame, and all other honours, privileges, dignities, liberties, pre-eminencies and immunities whatſoever pertaining thereto, or contained in the foundation of the ſaid biſhoprick, or annexed to the ſame by any of his Majeſty's moſt noble and ſerene progenitors; together with juriſdiction, right and privilege of free chapel and chancellary, and all other juriſdictions pertaining to the ſaid biſhoprick of Liſmore, which were poſſeſſed and enjoyed by the ſaid laſt biſhop thereof, or any of his predeceſſors, or were annexed thereto from the firſt foundation thereof, or that ſhall be found hereafter to appertain and belong to the ſaid biſhoprick of Liſmore; with power to the ſaid Hector, now biſhop of Liſmore, to bruik, enjoy and poſſeſs the ſaid biſhoprick of Liſmore, and all benefices and others particularly and generally above mentioned pertaining thereto, together with all and ſundry commodities, liberties, profits, and other pertinents whatſoever, freely, quietly, wholly and in peace, but any revocation, contradiction, impediment or obſtacle whatſoever, notwithſtanding any acts of parliament, or other acts, laws, ſtatutes or conſtitutions of the kingdom of Scotland, made, or to be made in the contrary; and ſicklike, his Majeſty, *in verbo principis*, promiſes to ratify and approve this preſent donation and proviſion in his Majeſty's next parliament of his ſaid kingdom; as alſo, if need be, to diſſolve the ſaid biſhoprick from the patrimony of his Majeſty's crown: Commanding hereby the Lords of his Majeſty's council and ſeſſion, to grant and direct his Majeſty's letters, at the inſtance of the ſaid Hector, now biſhop of Liſmore, for obeying and payment making to him, and to his chamberlains, factors, ſervants, and others in his name, of all and ſundry the parſonage-teinds, and other teinds, feu-farms, and other farms, kains, cuſtoms,

caſualties,

caſualties, fruits, rents, emoluments, profits and duties whatſoever, pertaining and annexed to the ſaid benefice, and that of this inſtant crop and year 1680, and of all years and terms in time coming, during all the days of the ſaid Hector biſhop of Liſmore his lifetime: And in like manner, commanding hereby the Lords of his Majeſty's privy council to grant and direct letters for giving up and delivery of the ſaid caſtles, towers, fortalices, dove-cots, yards, manor-places, and other houſes pertaining to the ſaid biſhoprick of Liſmore, to the ſaid Hector, now biſhop thereof, or others in his name, upon a ſimple charge of ſix days, under pain of horning. And *laſtly*, His Majeſty hereby ordains the ſaid gift and proviſion to be extended in the beſt and moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. Given at his Majeſty's court at Windſor-Caſtle, the laſt day of May 1680 years, and of his Majeſty's reign the 32d year.

This gift and proviſion goes by new creation, the perſon preſented not being formerly biſhop, and upon tranſlation of the laſt incumbent.

GIFT *and* PROVISION *of the Biſhoprick of* Brechin, *in favours of Mr.* Robert Douglas *Dean of* Glaſgow, *and Parſon of* Hamilton, *upon the Tranſlation of the laſt Incumbent to the Dioceſe of* Aberdeen.

OUR SOVEREIGN LORD, underſtanding that the biſhoprick of Brechin, within his Majeſty's kingdom of Scotland, is now vacant in his Majeſty's hands, and at his gift and diſpoſition, by tranſportation of George laſt biſhop of the ſaid biſhoprick, to the biſhoprick of Aberdeen, and conſidering how great neceſſity appears to ſupply the ſaid place, his Majeſty, by his letter of licence, under his Majeſty's private ſignet, of the date the —— day of —— laſt bypaſt, gave full power, liberty and licence to the dean and chapter of the ſaid biſhoprick of Brechin, to convene, elect and preſent to his Majeſty a perſon fit and qualified for the ſaid office; and accordingly, the ſaid dean and chapter, by their return under their hands and ſeal, recommended and preſented to his Majeſty Mr. Robert Douglas dean of Glaſgow, and parſon of Hamilton, as a perſon moſt fit and qualified for that charge: Therefore his Majeſty, of his Majeſty's certain knowledge, royal authority, and kingly power, ordains a letter to be expede the great ſeal (in the moſt ſure way of transferring and tranſmiſſion) tranſlating and tranſplanting, likeas his Majeſty, by theſe preſents, tranſlates and tranſplants the ſaid Mr. Robert Douglas from the ſaid deanry of Glaſgow and parſonage of Hamilton, to the ſaid biſhoprick of Brechin; and for that effect, his Majeſty, for his Majeſty and his royal ſucceſſors, by theſe preſents, ordains, nominates and creates the ſaid Robert, during all the days of his lifetime, biſhop of Brechin, giving, granting and diſponing to the ſaid Robert, during his ſaid lifetime, the ſaid biſhoprick, with all and ſundry lands, lordſhips, baronies caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, wards

iſles

iſles, mills, mill-lands, multures and ſequels thereof, woods, fiſhings, as well of ſalmon as other fiſhings, churches, benefices, teinds parſonage and vicarage, ſuperiorities, dignities and pre-eminencies, privileges, immunities, tenandries and ſervices of free tenants, advocations, donations, and rights of patronages of all churches, rectories, chaplainries, prebendaries, altarages, and of all other beneficies, as well ſpirituals as temporals, with the feu-farms, yearly duties, fees, penſions, fruits, rents, kains, cuſtoms and caſualties whatſoever, as well not named as named, pertaining and belonging to the ſaid biſhoprick, or at any time annexed thereto, together with privilege, right and juriſdiction of free regality, free chapel and chancellary within the haill bounds of the ſaid biſhoprick, with all and ſundry other privileges, liberties, commodities, dignities, pre-eminencies, immunities, fruits, rents, duties and caſualties whatſoever pertaining and annexed thereto at any time bygone, from the firſt foundation of the ſaid biſhoprick, or which ſhall be found to appertain and belong to the ſame in any time coming, wherever they are or ly in any part within the kingdom of Scotland; with power to the ſaid Robert to bruik, enjoy, exerce, poſſeſs and diſpone thereupon at his pleaſure, ſicklike and as freely, in all reſpects and conditions, as any other biſhop in any time bygone exerced, or for the future may exerce, and that as to the half of this inſtant year 1682, and all years and terms for the future, during all the days of his lifetime; diſpenſing always with the generality of theſe preſents, as if all and ſundry the privileges, liberties, rents, duties, caſualties and emoluments of the ſame whatſoever were herein named, and at length inſert and enumerated, notwithſtanding whatſoever acts of parliament, laws, ſtatutes and conſtitutions of his Majeſty's kingdom of Scotland, made, or to be made in the contrary, and whatſoever other exception; renouncing, transferring, and overgiving the ſame, by theſe preſents, for his Majeſty and his ſucceſſors, in favours of the ſaid biſhop, during all the days of his lifetime, with all action, inſtance, proceſs or execution whatſoever, competent, or that may be competent thereupon, and with ſupplement of all other defects and imperfections whatſoever, which his Majeſty will have as for expreſſed in theſe preſents: And his Majeſty hereby requires and commands all and ſundry heritors, proprietors, feuars, conjunct fiars, occupiers, tenants, tackſmen and poſſeſſors of the lands, teinds, fiſhings, and others above written, pertaining to the ſaid biſhoprick, and all others debitors, to readily anſwer, obey and make payment to the ſaid biſhop, his chamberlains and factors, of the fruits, rents, feu-farms, duties and caſualties thereof whatſoever, and that as to the laſt half of this inſtant year 1682, and yearly and termly in time coming, during all the days of his lifetime: And ſicklike, his Majeſty hereby commands the Lords of his Majeſty's ſecret council, to grant letters upon ſix days charge, for giving up and delivery to them of the ſaid caſtles, towers, fortalices, manor-places, edifices, houſes, yards, and others belonging to the ſaid biſhoprick: And his Majeſty faithfully promiſes, *in verbo principis*, to cauſe this his Majeſty's preſent donation and tranſplantation be ratified in his Majeſty's next ſeſſion of parliament of the ſaid kingdom, with conſent of the eſtates of parliament

ment thereof, and if need beis, to diſſolve the ſaid biſhoprick, with the pertinents, from the patrimony of his Majeſty's crown. And *laſtly*, His Majeſty ordains this preſent gift, tranſplantation and proviſion, to be extended in the beſt and moſt ample form, with all clauſes needful; and that precepts be orderly directed hereupon, in form as effeirs. Given at

Nota, This diploma is granted by new creation, upon the late incumbent's being tranſlated to the dioceſe of Aberdeen, and the perſon to whom granted, his being tranſlated from the deanry of Glaſgow and parſonage of Hamilton, to the ſaid biſhoprick of Brechin, the dean and parſon not being formerly biſhop.

Nota, That archbiſhops and biſhops have no collation or inſtitution, as miniſters have, their conſecration being ſufficient.

The END *of the* THIRD BRANCH *of the* FOURTH PART.

THE FOURTH BRANCH OF The FOURTH PART of the Author's Syſtem of STYLES,

Conſiſts of what paſſes the great ſeal only (or per ſaltum*), which may be underſtood by the index following; but the ſtyles omitted, and not ſet down* ad longum, *being, for the moſt part, drawn at court, and from off the records there, by a conſtant ſtyle, and with the change and alteration only of the perſon and his quality, office, and duration thereof, as ſometimes during life, and at other times during pleaſure, as the King is inclined, and all recorded in the chancellary.*

1. COMMISSION for a perſon to be commiſſioner for, and repreſent his Majeſty in parliament.
2. Commiſſion to a perſon to be commiſſioner for, and repreſent his Majeſty in a convention of eſtates.
3. Commiſſion to a perſon to be commiſſioner for, and repreſent his Majeſty in a general aſſembly.
4. Commiſſion to a perſon to be Lord high chancellor.
5. Commiſſion to a perſon to be Lord high treaſurer.
6. Commiſſion for ſome of the nobility, and others, to be Lords of the treaſury, when it goes in that conſtitution.
7. Commiſſion to the Lord privy ſeal.
8. Commiſſion to be Lord ſecretary of ſtate.
9. Commiſſion to be Lord high admiral, vice-admiral, or depute of the admiralty.
10. Commiſſion to be Lord regiſter.
11. Commiſſion to be Lord advocate.
12. Commiſſion to be Lord treaſurer-depute.
13. Commiſſion to be Lord juſtice-clerk.
14. Commiſſion to be director of the chancery.
15. Commiſſion to be Lords of ſeſſion, and one of them made preſident.
16. Commiſſion to ſome noblemen, gentlemen, and others, to audit the treaſurer's accompts, and at times to exoner; and at other times only to report to the King, who, in that caſe, exoners.
17. Commiſſion for the peace of the borders betwixt Scotland and England.
18. Commiſſion to be juſtice-general.
19. Commiſſion to be Lords of juſticiary.

20. Commiſſion

20. Commiſſion to be juſtice-depute, when the place went not in commiſſion, as now.
21. Patent creating a perſon Duke, Marquis, Earl, Viſcount, or Knight Baronet.
22. Commiſſion for keeping the Highlands of Scotland in peace, under the denomination of a commiſſion of juſticiary.
23. Commiſſion for auditing the accompts of the burghs.
24. Commiſſion for regulating of judicatories.
25. Commiſſion to be general of the mint.
26. Commiſſion to the clerks of council, and juſtice-court.
27. Commiſſion to be ſheriffs of ſuch ſhires whereof the King has the juriſdiction, as that of Edinburgh, Perth, Haddington, Aberdeen, Angus, Inverneſs, Roſs, Orkney, and ſome others.
28. Commiſſion to a nobleman, in time of war, to be Lieutenant within the kingdom under his Majeſty, with a moſt full and ample power.
29. Exoneration to men in their publick truſt of their adminiſtration in the King's affairs, and of what done, acted and ſaid by them therein, and of what can be laid to their charge on that head, and upon that account (yea, ſhould the ſame amount to treaſon) and for which alſo in the cloſe, *et in uberiorem ſecuritatem*, his Majeſty remits them.

Others again will not have exonerations, judging themſelves innocent, but will take ſomething like unto it, and is called an approbation in favours of ——— of all things acted and done by him, or others in his name, and by his command, by virtue of the commiſſion granted by his Majeſty, and Lords of his Majeſty's privy council to him, of the date the ——— ——— years, in relation to ſuch an expedition, which is curtly deduced.

Others, again, to put all out of queſtion, take a formal remiſſion, and hit not only at ſome ſpecificks, but alſo a general clauſe of all crimes whereof a man can be capable or culpable; and either done, written or ſpoken (*etiamque cogitationes*) which laſt word I only ſee in the Duke of Lauderdale's (my great and good friend) and another noble perſon's; and, I ſuppoſe (upon the ſtyle) imitating that of remiſſions in England, bearing the ſame words.

Nota, Till of late, remiſſions paſſed in exchequer, and through the whole ſeals; and he that reads th 10th act, Parl. 23d. K. James VIth, Auguſt 1621, bearing the rates of the ſeals, in paſſing infeftments, *&c.* he will find the remiſſions, and the price and rules ſet down, according to each perſon's quality, from the higheſt to the loweſt degree of ſubjects; and as yet, few go to the great ſeal *per ſaltum*, being but lately introduced.

30. Commiſſion to be governor of the caſtle of Edinburgh, Stirling, Dunbarton, or the like truſt.

Some burghs, as Edinburgh, Glaſgow, Aberdeen, and others, obtain a gift towards the payment of their debts, and for other publick works, from the King, of the two pennies, or the like, of the pint of all ale, beer, and other liquor, brewed, vended and ſold within, or imported to the burghs; and ſome have a greater latitude of ſo much out of the ton of wine and brandy imported or vended within the bounds; and theſe gifts alſo paſs the great ſeal: And at times, the King, with conſent of the eſtates of parliament, grants ſuch gifts, and the like, for bigging and upholding of bridges, and other publick works, tending to the good of the kingdom, and ſometimes ſuch paſs only the privy ſeal.

Nota, When I let the director-depute of the chancellary ſee this catalogue, leſt I might have omitted ſome, he returned it, with this obſervation upon the former words (*etiamque cogitationes*) that the ſame behoved to be a miſtake in the tranſlation of the Engliſh into Latin; for, ſays he, I judge the Engliſh bears *plots* or *devices*, which they have tranſlated to *cogitationes*; but when I conſidered, that the words *devices*, *conſpirations*, *treaſon*, and the like, (albeit not the word *plot* in any dictionary I have ſeen) had proper words of their own in the Latin, I continue the words *etiamque cogitationes*, as moſt pertinent and religious, and ſure loyal at will; for Satan, the great enemy of mankind, even from the beginning, makes his firſt aſſault upon man, by corrupting his thoughts, and then, by the next aſſault, prompts him forward to action: and ſure diſloyalty, as it is moſt odious, and againſt the law of God and man, and tending to the ſubverſion of religion and ſociety, ſo the very thoughts, having a tendency thereto, are highly condemned by the holy ſcriptures. Read Eccleſiaſtes, chap. x. ver. 20. and ye will find it ſo: The words are, *Curſe not the King, no not in thy thought; and curſe not the rich in thy bed chamber; for a bird of the air ſhall carry the voice, and that which hath wings ſhall tell the matter.*

The END *of the* FOURTH BRANCH *of the* FOURTH PART.

To

To the DEAN of FACULTY, and remanent Brethren of that Honourable and learned SOCIETY of LAWYERS; GEORGE DALLAS of St. MARTINS, Author of the whole Work, whereof this is the FIFTH PART, wiſheth all Happineſs and Proſperity.

Gentlemen,

AS we are members of the college of juſtice, albeit in diſtinct capacities, ſo, amongſt the reſt of my dedications, I culled out this part for you, as moſt appoſite, the ſecurities of mens eſtates being of the higheſt import, next to our religion and government, of all human things, and adminiſtrates not only a preſent, happy, and comfortable life to the acquirer, but alſo a ſubject matter of education and proviſion of children, to be of uſe in church and ſtate. And by whom ſhould tranſactions of that nature be made, and not adviſed by eminent lawyers, who know the fundamentals of rights, and how property may be legally, and with ſafety, conveyed, regiſters ſearched, incumbrances detected, and future grounds of eviction avoided and prevented, and always inclined rather to find out remedies, than creare maladies, ſo that the acquirer may live in the peaceable poſſeſſion and enjoyment of his purchaſe, and tranſmit the ſame, without fear, to poſterity? whereas, if the acquirer, through parſimony or ignorance, rely upon perſons of mean and no capacity, the event and ſad conſequence thereof is obvious, and eaſily preſaged, and in thoſe words conclude, *O! mihi præteritos, &c.* and would give the one half to redeem the other, from the ſevere and known laſh of an old, latent, and expired compriſing, interdictions, inhibitions, hornings expired year and day, rights of property or annualrent, either confirmed by the ſuperior, or a baſe ſeiſin clad with poſſeſſion, ſeiſins not regiſtered in due time, infeftments in ward-lands not confirmed, and thereby inferring recognition, defects in the progreſs, and the like. When ye reviſe the whole work, I doubt not, but the prudent and moderate ſpirit will conſtruct all to the beſt, either for merit, or out of generoſity: Others, as vain philoſophers, play the critick, and cenſure what does not pleaſe their pallate; to prevent which, I do myſelf, in modeſty, compare it to a garden, wherein there may be weeds as well as flowers and herbs, and all know, that the good gardener makes a reaſonable diſtinction in pulling up the weeds, and throwing them over the hedge, and thereby enriches the ground, to entertain and cheriſh the pleaſant flowers and herbs uſeful and profitable for mankind: Nor doubt I, but men of your prudence, learning and generoſity, will in that trace his veſtiges, and put the beſt conſtruction upon all things, wherein ye will appear like yourſelves, and oblige

Your ever well-wiſher and devoted ſervant,

GEO. DALLAS.

THE

FIFTH PART

OF THE

AUTHOR'S SYSTEM OF STILES,

CONSISTS OF

Heritable bonds, of various natures.

Bonds of provision of younger children.

Bonds granted by incorporations for money.

Contracts of wadset, proper and improper, and renunciation of the wadset upon payment.

Contracts of marriages of all qualities.

Contracts of excambion of lands.

Contracts anent the heritable right of coal, and winning thereof, and many privileges belonging thereto, and some acres to build houses upon, and a charter upon the resignation of one of the parties, of a good stile.

A contract bearing the sale of land irredeemably, reserving the half of the coal in the ground; but there is a communication of the coal in both parties lands, with many privileges, and yet with some limitations, and but of a short duration, being stinted to some forty years.

Contract as to a fore-hand bargain of victual and salmon, betwixt an heritor and merchants, for several years, at a set price, upon advance of a considerable sum, to extricate the gentleman's estate of debt, and therefore bears infeftment, in corroboration of all the rights and incumbrances on the estate, which the merchants were to acquire the time of their entering in minute, and actually did the time of the contract, as to a due and exact performance of the bargain.

Contract of feu.

Minute of contract, as to the sale of lands.

Contract or indentures, for clearing marches, both as to property and commonty.

Dispositions of lands irredeemably, of apprisings and adjudications, whether on the act of parliament in place of apprisings, or when the apparent heir renounces, and in the cases when the appriser or adjudger are infeft, or not.

Disposition and renunciation of the annuity of teinds.

Disposition of lands and others in real warrandice, of other lands formerly and principally disponed, and expires upon

upon the purging of incumbrances, or obtaining the parties intereſted in them their conſents to the firſt and principal right.

Procuratory by the father, for reſigning the eſtate in favours of his eldeſt ſon, reſerving ſome liferents, and with the burden of his debt, and younger childrens proviſions.

Factory or commiſſion by a nobleman going abroad, to friends, to manage his eſtate, and to grant tacks, output and input tenants and chamberlains, enter and receive vaſſals, call chamberlains to an account, uplift and diſchage rents and debts due, and pay debts owing therewith.

Submiſſions and decreets-arbitral, clare conſtat.

Tacks, charter-party, and bond of caution, if ſuſpended.

Charter of a good ſtile, by a nobleman to three ladies, his daughters, for implement of their bond of proviſion, and for a conſiderable ſum, with a perſonal reverſion to himſelf during life, upon payment or conſignation of an angel of gold, and another reverſion to his heirs, but upon payment of the whole proviſions, and the renunciation by the father of the ſaid perſonal reverſion.

Letter of bailliary by a Lord of regality.

Deputation of the offices of ſtewarty and ſheriffſhip, and ſeveral mortifications, of a moſt excellent ſtile, and religious and comprehenſive at will, with very uſeful and profitable obſervations adjected to moſt of the ſtiles, worthy of obſervation.

HERITABLE BOND, *bearing an Obligement to Infeft in an Annualrent out of Lands, for Security of the principal Sum borrowed, and that by double Infeftments, to be holden, with Warrandice, under Reverſion, and with Requiſition, and containing divers other Clauſes, as hereafter expreſſed, and likeways Procuratory of Reſignation and Precept of Seiſin.*

BE it know to all men; by theſe preſent letters, me A. B. of —— heritable proprietor of the lands and others after ſpecified, forth of which the annualrent after mentioned is appointed to be uplifted and taken, in manner after expreſſed: Foraſmuch as G. D. of —— has inſtantly advanced, paid and delivered to me, the ſum of 5000 merks Scots money, for outredding my neceſſary affairs, whereof I hold me well content, ſatisfied, and paid, and for me, my heirs and executors, exoner and diſcharge the ſaid G. D. his heirs, executors, and all others whom it effeirs, of the ſame; renouncing the exception of not-numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary, by theſe preſents for now and ever: Therefore, wit ye me to be bound and obliged, likeas I by theſe preſents, faithfully bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe, by charter and ſeiſin, *titulo oneroſo*, in due and competent form, the ſaid G. D. his heirs and aſſignees whatſoever, heritably, under reverſion, in manner after ſpecified, in all and haill

an annualrent of three hundred merks money foreſaid, or any other annualrent effeiring to the ſaid principal ſum, that by any ſupervenient law ſhall happen to be eſtabliſhed within this kingdom for the future, yearly to be uplifted and taken at two terms in the year, Whitſunday and Martinmas, by equal portions, forth of all and haill my lands of —— lying within the pariſh of —— and ſheriffdom of —— or any part or portion thereof, and firſt, beſt and readieſt of the mails, farms, profits and duties of the ſame, and that by double infeftments and manner of holdings, the one thereof to be holden of me and my foreſaids in free blench, for payment of a penny Scots money, upon the ground of the ſaid lands, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly; and the other of the ſaid infeftments to be holden from me and my foreſaids, of my immediate lawful ſuperiors of the ſaid lands, and conſequently of the ſaid annualrent, alſo blench, and for payment of the like duty as aforeſaid, at the term above ſpecified, if required, and that either by reſignation or confirmation, as beſt ſhall pleaſe the ſaid G. D. and his foreſaids; the acceptation of the one of the ſaid infeftments to be no ways prejudicial to the other; and for that effect, to make, grant, ſubſcribe, and deliver to them ſufficient procuratories of reſignation, charters containing precepts of ſeiſins, and other ſecurities requiſite and neceſſary, for infefting and ſecuring of them thereuntil, and that upon my own proper charges and expences. And for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of the other infeftment above written, I, by theſe preſents, make, conſtitute and ordain ——— and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevokeable procurators, actors, factors, and ſpecial errand-bearers, to the effect after ſpecified, giving, granting, and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge, for me, in my name, and upon my behalf, to compear before my immediate lawful ſuperiors above ſpecified, or their commiſſioners, in their names, having their power to receive reſignations, and thereupon to grant new infeftments, at and upon whatſoever day or days, place or places, lawful and convenient, and there, with all due humility and condign reverence, as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, to reſign, likeas, I by theſe preſents, reſign, ſurrender, overgive and deliver all and haill the foreſaid annualrent of three hundred merks money foreſaid, or any other annualrent effeiring to the ſaid principal ſum, that ſhall happen to be eſtabliſhed in manner foreſaid, yearly to be uplifted and taken at the ſaid terms, and by equal portions, as ſaid is, forth of the lands and others above mentioned, lying as ſaid is, in the hands of my ſaid immediate lawful ſuperiors, or their commiſſioners above expreſſed, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid G. D. his heirs and aſſignees whatſoever, heritably, in ſuch due and competent form as accords, redeemable always, and under reverſion, in manner after rehearſed, acts, inſtruments, and documents, one or more, as need beis in the premiſſes, to aſk and raiſe, and generally all and ſundry other things thereanent, to do, uſe, and exerce, as freely in all reſpects, as I might do therein myſelf, if I were perſonally preſent; promiſing to hold firm and ſtable, *&c.* and now as if the ſaid infeftments were already made and paſſed,

and

and then as now, I by theſe preſents, bind and oblige me and my foreſaids, to warrant the foreſaid annualrent, lands forth of which upliftable, reſignation and infeftment to follow thereupon, to be ſufficient, free, ſafe and ſure to the ſaid G. D. and his foreſaids, in all, and by all things as is above written, from all and ſundry wards, reliefs, nonentries, eſcheats, liferents, conjunct fees, ladies terces, inhibitions, interdictions, appriſings, adjudications, recognitions, diſclamations, evictions, reductions, nullities, and other perils, burdens, dangers, and inconveniencies whatſoever, as well not named as named, bygone, preſent, as to come, during the ſaid not redemption, at all hands, and againſt all deadly as law will; likeas, I by theſe preſents, bind and oblige me and my foreſaids, but innovation of, or derogation to the infeftments above written, to make good and thankful payment to the ſaid G. D. and his foreſaids, of the ſaid annualrent, at the terms, and by equal portions, as ſaid is, beginning the firſt term's payment thereof, at the term of Whitſunday next to come, for the term immediately preceding, *viz.* from Martinmas laſt to the ſaid term of Whitſunday next, and ſo forth yearly and termly thereafter, at the ſaid terms, and by equal portions, in manner foreſaid, during the ſaid not redemption, with the ſum of thirty merks money above written, of liquidate expences for each term's failzie of the ſaid annualrent, and that by and attour the ſame, and together therewith. And for their further ſecurity, and more ſure payment of the ſaid annualrent, I by theſe preſents, but derogation to the infeftments and perſonal obligations above written, or either of them, *ſed accumulando jura juribus*, make, conſtitute and ordain them, my undoubted ceſſioners and aſſignees, in and to as much of the firſt, beſt and readieſt of the mails, farms and duties of the ſaid lands, as will correſpond and be effeiring to, and ſatisfy and pay them of the ſaid annualrent and expences foreſaid, if incurred, yearly and termly in time coming, with power to them to receive the ſame from the tenants and poſſeſſors, and to purſue therefor, if need beis, by a poinding of the ground, or otherways, as accords; and upon payment, to grant diſcharges, and do all other things thereanent, as freely in all reſpects, as I might do therein myſelf, before the granting of theſe preſents. And further, in caſe it ſhall pleaſe the ſaid G. D. and his foreſaids, to hold the ſaid annualrent of me, and my heirs, as their immediate lawful ſuperiors thereof in time coming, I oblige me and my foreſaids, to enter and receive them in-vaſſals to us therein, as oft as occaſion falls out and occurs, and that *gratis*, freely, but any compoſition; and if any caſualty ſhall happen to fall in our hands, as ſuperiors foreſaid, by eſcheat, liferent, or otherways, to diſpone the ſame alſo in their own favours, or in favours of any other perſon to their behoof they pleaſe nominate, and that likeways *gratis*, but any compoſition; likeas now, as if the ſame were already fallen out and occurred, and then as now, I by theſe preſents, aſſign and diſpone the ſame in their own favours for ever; providing always, likeas it is hereby ſpecially provided and declared, and be it ſo provided and declared by the reſignation and infeftments to follow hereupon, that the foreſaid annualrent ſhall be always redeemable by me and my foreſaids, from the ſaid G. D. and his foreſaids, by payment making to them at any term of Whitſunday or Martinmas even hereafter, within St. Giles's kirk of Edinburgh, of the foreſaid principal ſum of 5000 merks, in ſuf-

ficient gold and ſilver, having paſſage and courſe of payment for the time, and all copper, baſe and laid money excepted and excluded, and upon premonition of forty days of before, to be made by me and my foreſaids to them for that effect, perſonally, or at their dwelling-places for the time, in preſence of a notary and witneſſes, as effeirs; and in caſe of their abſence, or refuſal of the ſaid ſum, the ſame to be conſigned in the hands of the provoſt, or any one of the baillies, treaſurer, or dean of guild of the ſaid burgh of Edinburgh, moſt reſponſal for the time, to be made forthcoming to the ſaid G. D. and his foreſaids, upon the peril of the conſigner; and it is hereby declared, that until ſuch time as the haill by-runs of the ſaid annualrent that beis reſting for the time, with the foreſaid termly penalty and expences after ſpecified, if incurred, together with all other ſums that ſhall happen to be reſting by me and my foreſaids to the ſaid G. D. and his foreſaids, by bonds apart, and that beis eiked to the ſaid reverſion, be all really paid, numerated and told down with the ſaid principal ſum, or otherways conſigned, as ſaid is, no lawful redemption to be reputed nor holden; and on the other part, the ſaid ſums being ſo paid or conſigned, then the foreſaid annualrent ſhall be holden as lawfully redeemed, looſed and out-quit in all time thereafter. And laſtly, it is hereby declared, that the foreſaid proviſion and condition of reverſion, is and ſhall be as ſufficient for uſing of the foreſaid order of redemption, as if a particular letter of reverſion were duly and lawfully made, ſealed, ſubſcribed, delivered and regiſtered apart, with all ſolemnities requiſite, conform to the act of parliament, albeit the ſame be not ſo done, whereanent diſpenſes for ever: And notwithſtanding of the premiſſes, in caſe it ſhall pleaſe the ſaid G. D. and his foreſaids, rather to deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity thereof above written, in that caſe, I bind and oblige me, my heirs, executors, ſucceſſors to me in my lands and heritages, and intromitters with my goods and gear whatſoever, (4) to content, pay and deliver again the ſaid principal ſum of 5000 merks money foreſaid, to them, upon the ſaid feaſt and term of Whitſunday even next to come, or any other term or time thereafter they pleaſe, upon the requiſition of twenty-four hours of before to be made by the ſaid G. D. or his foreſaids, to me and my foreſaids for that effect, perſonally, or at our dwelling-houſes for the time, we being within the realm, and in caſe we be forth thereof, at the dwelling-houſe of ——, as the only manſion hereby deſtinated and appointed for the ſame, without any neceſſity of requiring us at Edinburgh croſs, or pier of Leith, or of our tutors or curators, albeit we be minors for the time, or of any letters in ſupplement for that effect; whereanent, and with all that may follow thereupon, or that may be objected againſt the ſame, and of all acts and laws made or to be made to the contrary, I, for me and my foreſaids, have diſpenſed, and by theſe preſents diſpenſes for ever, and renounces the ſame in their favours, *omni habili modo*, and that in preſence of a notary and witneſſes as effeirs; wherein if we fail, requiſition being lawfully made, as ſaid is, I bind and oblige me and my foreſaids, to content and pay to the ſaid G. D. and his foreſaids, the ſum of —— of liquidate penalty, inſtantly modified and agreed to of conſent, in caſe of failzie, and that by and attour the ſaid principal ſum, annualrents, and charges of the ſaid infeftment reſting at the time, termly penalties thereof,

of, and together therewith. (6) And laſtly, it is hereby declared, agreed to, and condeſcended upon betwixt us, that notwithſtanding of any ſuch requiſition, or perſonal or real execution to follow hereupon, yet it ſhall be lawful to the ſaid G. D. and his foreſaids, to recur to their ſaid right of annualrent, decreet of poinding of the ground following thereupon, and poſſeſſion apprehended by virtue thereof, and to make uſe either of the ſame, or of the foreſaid real or perſonal diligence and execution to follow on the ſaid requiſition, or of both conjunctly or ſeverally, as accumulative or diſtinct rights, the one but prejudice of the other, in their option, and that but any innovation or confuſion of rights. And for the more ſecurity, I am content, and conſent theſe preſents be inſert and regiſtered in the books of council and ſeſſion, or others competent, to have the ſtrength of a decreet of the Lords, or judges thereof interponed thereto, that letters of horning on ſix days, and others neceſſary, in form as effeirs, may paſs hereupon; and for that effect, conſtitutes ——— my procurators, *&c.* Attour, to the effect the ſaid G. D. may be lawfully infeft in the ſaid annualrent, to be holden of me, or of my immediate lawful ſuperiors above ſpecified, or of both or either of us, the one but prejudice of the other, in his option, I by theſe preſents, make, conſtitute and ordain ——— and each one of you, conjunctly and ſeverally, my very lawful, undoubted, and irrevokable baillies, to the effect after ſpecified; and it is my will, and I charge you, that incontinent this my precept of ſeiſin ſeen, ye paſs to the ground of the lands, and others above mentioned, forth of which the ſaid annualrent is upliftable, in manner foreſaid, and there give heritable ſtate and ſeiſin, actual, real and peaceable poſſeſſion, of all and haill the foreſaid annualrent of 300 merks money foreſaid, or any other annualrent effeiring to the ſaid principal ſum, that ſhall happen to be eſtabliſhed in manner foreſaid, yearly, to be uplifted and taken at the terms, and by equal portions, as ſaid is, forth of the lands and others above mentioned, with the pertinents, lying in manner above expreſſed, or any part thereof, and readieſt duties of the ſame, to the ſaid G. D. or his attorney in his name, bearer of theſe preſents, by deliverance to them of earth and ſtone of the ſaid lands, and one penny money upon the ground thereof, as uſe is, and this on no ways ye leave undone; the which to do, gives full power and commiſſion thereanent, by this my precept of ſeiſin, directed for that effect, redeemable always, and under reverſion, in manner above expreſſed. In witneſs whereof, I have ſubſcribed theſe preſents, (written by ——,) with my hand, at —— the —— day of —— 17— years, before theſe witneſſes,

Nota, In caſe of voluntary payment, or legal redemption, there muſt be a renunciation and grant of redemption, which ye will find afterwards, amongſt other renunciations.

HERITABLE BOND, *bearing Infeftment in Lands, for Security of Money, and not by way of Annualrent forth thereof, and is very full and ample; and if the Creditor pleaſe hold of the Debitor, during not Redemption, the Entry and Nonentry of the Heirs and Liferent-Eſcheat of the Debitor, if it fall, are taxed; and of the like, more afterwards.*

BE it known to all men, by theſe preſent letters, me A. B. of —— heritable proprietor of the lands and others after ſpecified: Foraſmuch as G. D. of —— has inſtantly advanced, paid and delivered to me, in friendly borrowing, and for outredding of my neceſſary affairs, all and haill the ſum of 5000 merks Scots money, whereof I hold me well content, ſatisfied and paid, and for me, my heirs and executors, exoner and diſcharge the ſaid G. D. his heirs, executors, and all others whom it effeirs, of the ſame, renouncing all exceptions and objections in the contrary, for now and ever; therefore, wit ye me to be bound and obliged, likeas I hereby bind and oblige me, my heirs, as well male, tailzie, conqueſt and proviſion, as of line, renouncing the benefit of the order of diſcuſſing them, ſucceſſors to me in my lands and heritages, and intromitters with my goods and gear whatſoever, thankfully to refund, content, pay, and again deliver to the ſaid G. D. his heirs and aſſignees, ſecluding executors, the ſaid ſum of 5000 merks money foreſaid, with the annualrent thereof, from the date hereof, to the term of payment under written, and that betwixt and the term of —— next to come, but longer delay, with the ſum of —— money foreſaid, of liquidate expences, in caſe of failzie, attour the ſame, and together therewith; together alſo with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not payment thereof, after the ſaid term. And for the ſaid G. D. and his foreſaids their further ſecurity anent the premiſſes, and but derogation to the perſonal obligement above ſpecified, or innovation thereof in any ſort, but in further corroboration of the ſame, *accumulando jura juribus*, I bind and oblige me, my heirs and ſucceſſors aforeſaid, duly and ſufficiently to infeft and ſeiſe them heritably, under reverſion, in manner after mentioned, in all and haill my lands of ——, lying within the pariſh of ——, and ſheriffdom of ——, and that by double infeftments and manner of holdings, *à me* and *de me*, and both blench, for payment of one penny Scots money on the ground, at the feaſt of Whitſunday yearly, in name of blench farm, if it be aſked allenarly, and to grant all rights requiſite thereanent, with warrandice, in manner under written, and upon our own charges and expences; and for the better obtaining of the ſaid infeftment by reſignation, but prejudice of the other infeftment above written, I hereby make and conſtitute ——, and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevokable procurators, (*here take in the former procuratory of reſignation; only, inſtead of reſigning the annualrent, as there, ye muſt here reſign the lands, and write till ye come to the warrandice, and then ſay*) and now, as if the ſaid infeftments were already made and paſſed, and then as now, I hereby bind and oblige me and my foreſaids, to warrant the foreſaid lands, reſignation and infeftments,

feſtments, (*here take in the warrandice as in the former bond, till ye come to* likeas, *and then ſay*) and in like manner, I hereby, but derogation to the former rights real and perſonal, *ſed accumulando jura juribus*, in manner foreſaid, make, conſtitute and ordain the ſaid G. D. and his foreſaids, my undoubted ceſſioners and aſſignees, in, and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid, in all time coming, during the not redemption, at leaſt in and to ſo much thereof as will ſatisfy and pay them, not only the annualrents of the ſaid principal ſum, yearly and termly during the ſpace above ſpecified, but likeways the expences of the ſaid infeftments, if they be the expenders thereof, and even the principal ſum itſelf, and penalty after mentioned, if incurred, and if ſo it ſeem to them expedient. And farther, I hereby aſſign, tranſfer and diſpone in their favours, the writs and evidents, both old and new, of the ſaid lands and others foreſaid, in ſo far allenarly as may be extended to the ſecurity and payment of the ſaid ſums, and no farther; with full power to the ſaid G. D. and his foreſaids, to intromit with, uplift, aſk, crave, and receive the foreſaid mails, duties, and caſualties above aſſigned, from the tenants and poſſeſſors of the ſaid lands and others foreſaid, in ſo far as may be extended, as ſaid is, and to call and purſue therefore, before any judge or judges competent, and to ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, and the ſame to due execution cauſe be put, and upon payment to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe I might do therein myſelf, before the granting of theſe preſents; providing always, likeas it is hereby ſpecially provided and declared, and be it ſo provided and declared by the reſignation and infeftments to follow hereupon, that the ſaid lands and others foreſaid, are, and ſhall be always redeemable by me and my foreſaids, from the ſaid G. D. and his foreſaids, by payment making to them at any term of Whitſunday or Martinmas even hereafter, within ——, of the foreſaid principal ſum of 5000 merks money foreſaid, in ſufficient gold or ſilver, having paſſage and courſe of payment for the time, and all copper, braſs and lay-money excepted and ſecluded, together with the expences of the foreſaid infeftments, in caſe they be the deburſers thereof, and annuals of the ſaid principal ſum that ſhall happen to be reſting for the time, upon the premonition of forty days of before to be made by me and my foreſaids to them for that effect, perſonally, or at their dwelling-places for the time, in preſence of a notary and witneſſes as effeirs; and in caſe of their abſence, or wilful refuſal to the receipt of the ſaid ſums, the ſame to be conſigned in the hands of the provoſt, or any one of the baillies, dean of guild, or treaſurer of the burgh of —— moſt reſponſal for the time, to be made forthcoming to the ſaid G. D. and his foreſaids, upon the peril of the conſigner; and it is hereby provided and declared, that until ſuch time as not only the ſaid principal ſum, annualrents thereof reſting for the time, and expences of the ſaid infeftments, but alſo all other ſums that ſhall happen to be reſting by me and my foreſaids, to the ſaid G. D. and his foreſaids, by bond apart, and that beis eiked to the ſaid reverſion, be all really paid, numerated and told down therewith, or otherways conſigned, as ſaid is, no lawful redemption to be reputed or holden; and on the other part, the ſaid haill ſums

being

being ſo paid or conſigned, in manner foreſaid, then the ſaid lands and others above ſpecified, ſhall be holden as lawfully redeemed, looſed, and out-quit in all time thereafter; and farther, it is hereby declared, that the foreſaid proviſion and condition of reverſion, is and ſhall be as ſufficient for uſing the ſaid order of redemption, as if a particular letter of reverſion were duly and lawfully made, ſealed, ſubſcribed, delivered and regiſtered apart, with all ſolemnities requiſite, conform to the act of parliament (albeit the ſame be not ſo done) whereanent diſpenſes for ever. And in caſe, during the ſaid not-redemption, it ſhall pleaſe the ſaid G. D. and his foreſaids, to hold the ſaid lands, with the pertinents, of me and my heirs and ſucceſſors, as their immediate lawful ſuperiors thereof, I bind and oblige me and my foreſaids, to enter and receive them from time to time in-vaſſals, and heritable tenants to us therein, for payment of three ſhillings four pennies Scots money, in name of compoſition for each entry, and not to ly out ourſelves unentered in the ſaid lands, to their prejudice; and if any caſualty ſhall happen to fall in our hands, as ſuperiors foreſaid, by liferent eſcheat, or otherways, to diſpone the ſame, and haill caſualties thereof, in their own favours, or in favours of any other perſon they pleaſe, and for their behoof, and that for payment of ſix ſhillings eight pennies money foreſaid, *toties quoties* any ſuch caſualty ſhall happen to fall in our hands, as ſuperiors above ſpecified. And, *laſtly*, to diſpone to them the non-entries of the ſaid lands, and haill benefit thereof, as oft, and how oft the ſame ſhall occur for payment of the like ſum of ſix ſhillings eight pennies, and to which reſpective ſums, I, for me and my foreſaids, have taxed, and hereby tax the ſaid entries, non-entries, and liferent eſcheats, and other caſualties that may fall in our hands, as ſuperiors above named, in favours of the ſaid G. D. and his foreſaids, in all time coming, during the ſaid not-redemption; likeas now, as if the ſaid caſualties were already fallen out and occurred, then as now, I, for me and my foreſaids, hereby aſſign and diſpone the ſame in their own favours for ever, upon payment allenarly of the reſpective duties above ſpecified, to which the ſame are taxed, in manner foreſaid: And, notwithſtanding of the premiſſes, in caſe it ſhall pleaſe the ſaid G. D. and his foreſaids, rather to deſire to have the ſaid principal ſum repaid to them, than to retain the ſecurity above mentioned, in that caſe, I bind and oblige me, my heirs, executors, ſucceſſors to me in my lands and heritages, and intromitters with my goods and gear whatſoever *(here take in from the* (4) *figure, to the* (6) *figure in the former heritable bond, and then ſay)* And it is hereby expreſly provided and declared, agreed to, and condeſcended upon betwixt us, that, notwithſtanding of any ſuch requiſition, or perſonal or real execution, and diligence to follow thereupon, yet the ſaid infeftment and right ſhall no ways be thereby looſed, innovated, hurt or infringed, nor ſhall the ſaid infeftments and right, hurt or prejudge the ſaid requiſition, and other real and perſonal diligence aforeſaid, but that it ſhall be ſtill leiſome and lawful to the ſaid G. D. and his foreſaids, to make uſe of all or either of the ſaid rights, conjunctly or ſeverally, as accumulative or diſtinct rights, the one but prejudice of the other, and that in their option, and but any innovation or confuſion of rights; and for the more ſecurity (*here take in the former*

mer clauſe of regiſtration, and then ſay) Attour, to the effect the ſaid G. D. may be lawfully infeft in the ſaid lands, to be holden *à me, de me*, or both, in his option, I hereby make, conſtitute and ordain ———— or any one of you, my baillies in that part, to the effect after ſpecified, with full and ample power to paſs to the ground of the ſaid lands and others foreſaid, with the pertinents, and there give heritable ſtate and ſeiſin, actual, real and peaceable poſſeſſion of the ſaid lands and others foreſaid, with the pertinents, lying as ſaid is, here holden as for expreſſed *brevitatis cauſa*, to the ſaid G. D. or his attorney in his name, bearer of theſe preſents, by deliverance to them of earth and ſtone of the ſaid lands upon the ground thereof, as uſe is, and this on no ways ye leave undone; the which to do, gives full power and commiſſion thereanent, by this my precept of ſeiſin granted for that effect, redeemable always, and under reverſion, in manner above expreſſed. In witneſs whereof, I have ſubſcribed theſe preſents (written by ————) with my hand, at ———— the —— day of ———— 17— years, before theſe witneſſes,

Nota, By the two former draughts, or forms, ye may perceive, that heritable bonds are of different and various natures, *viz.* the firſt by way of annualrent out of the land, and with requiſition; and the laſt, by way of obligation for the money, bearing annualrent and expences in common form, and an obligement for infeftment, not by way of annuity or annualrent, but in the lands themſelves, whereby the creditor may be paid by poſſeſſion, and uplifting the whole duties (whatever fall out as to the debitor's condition) and that of the principal ſum, as well as of the annualrents, and is the better right, eſpecially, ſeeing by the firſt right, ſhould the creditor deceaſe, and his heir minor, and that negligent tutors not infeft him immediately, upon the deceaſe of his father, the annualrent falling in non-entry (by the rule of retour and chancery) *valet ſeipſum* to the ſuperior, if the father was confirmed, or entered by reſignation, and ſo found by the Lords in many caſes; and this hazard was moved in parliament, for a ratification thereof, and to have it reduced to a blench-duty, but took no effect.

Nota, There is a third ſort of an heritable bond, *viz.* the debitor borrows the money, as in the firſt draught, and obliges to infeft in the lands by double infeftments, containing alſo procuratory of reſignation, warrandice, and aſſignation to the writs and evidents, and mails and duties, reverſions and obligements as to the entry, non-entry, and liferent eſcheats, and precepts of ſeiſin, as in the ſecond draught; and ſo in theſe two points only differs from the ſecond, *viz.* he only borrows the money, and obliges to infeft, but does not oblige in the firſt place, to pay at a term, with annualrent and expences, as in the ſecond draught. And, 2*do*, This therefore bears a clauſe of requiſition, which the ſecond, or immediate former draught does not; becauſe in that, there is, firſt, a perſonal bond for the money, and then the obligement to infeft; and in this there is no obligation in the firſt place, but thereafter requiſition: and, upon the whole matter, a party that borrows money muſt pleaſe his creditor, and the writer walks as parties conceit.

Nota, There is a fourth ſort of an heritable bond, and that is, when the bond is conceived in favours of heirs and aſſignees, ſecluding executors, and ſo eſtabliſhed by act of parliament, merely upon the account to evite confirmation of teſtaments, and to exclude relicts from half or third of the perſonal eſtate, the generality of the kingdom being much concerned in the having of the ſaid act made; and yet obliges parents to provide for their younger children in time, leſt, by the conception aforeſaid, the heir claiming all, and the poor younger children left to his mercy: and who is certain of his life, or the time of his diſſolution?

BOND

BOND *of Proviſion by a Father to his ſix younger Children, the eldeſt Son, as Heir, being to ſucceed to his real and perſonal Eſtate, containing fine Clauſes, and moſt rational Subſtitution and Faculty.*

BE it known to all men by theſe preſent letters, me W. D. of D. Foraſmuchas I conſidering, that as the eldeſt ſon ſucceeds to the father in his real eſtate, ſo it is a duty lying upon all parents (by the law of God and nature) to provide their younger children to ſuch competent portions and proviſions as their eſtate will allow, and even when the perſonal will not afford a fund (whereupon to effectuate the ſame) to burden the real eſtate therewith; and that, to perform that duty to the younger children ſeaſonably and whilſt parents are in health, and *in liege pouſtie*, and ſo moſt fit and capable to judge of ſuch matters, and ſet down the ſolid and ſecure rule, that the ſame may not afterwards be brought in queſtion by the heir, is the true and ſafeſt way; and I likeways taking under my conſideration, that as God has bleſſed me with ſix children, beſides my eldeſt ſon, ſo he has alſo bleſſed me with a competent eſtate in a world, wherewith to provide my ſaid younger children, and beſides wherewith to provide my eldeſt ſon; and I being fully reſolved to give an evidence of my reſolutions and intentions towards my ſaid younger children, and not leave them to uncertainties, as that of death-bed or ſickneſs: Therefore, wit ye me to be bound and obliged, likeas I, by theſe preſents, faithfully bind and oblige me, my heirs, executors, ſucceſſors to me in my lands and heritages, and intromitters with my goods and gear whatſoever, to content, pay and deliver to A. D. my eldeſt lawful daughter, W. D. my ſecond lawful ſon, N. D. my third lawful ſon, C. D. my ſecond lawful daughter, G. D. my third lawful daughter, and G. D. my fourth lawful ſon, and to their heirs of line, tailzie and proviſion after ſpecified, and their aſſignees after mentioned, all and haill the ſum of 33000 merks uſual money of this realm, as principal, with the annualrent thereof, from the firſt term of Whitſunday or Martinmas, Candlemas or Lammas next, and immediately following my own deceaſe (when the ſame, at the pleaſure of God, ſhall happen) to the term of payment under written, and that betwixt the date hereof, and year and day after my ſaid deceaſe, according to the reſpective portions and diviſions under written, and with and under the other reſervations, proviſions, conditions, declarations, power, faculty and liberty after rehearſed, *viz.* To the ſaid A. D. and heirs of her body, and aſſignees, by contract of marriage allenarly, or in caſe of marriage, and thereafter deceaſing within year and day, without a living child lawfully begotten of her body, to the perſons after mentioned, the ſum of 8000 merks thereof; and to the ſaid W. D. and heirs of his body, and his aſſignees, after his full and perfect age of twenty-one years complete allenarly, the ſum of other 8000 merks of the ſame; and to the ſaid N. D. and heirs of his body, and aſſignees, after majority allenarly, the ſum of 5000 merks thereof; and to the ſaid C. D. and heirs of her body, and aſſignees, by contract of marriage allenarly, or in caſe of marriage, and thereafter deceaſing within

in year and day, without a living child procreate in the ſaid marriage, to the perſons after named, the ſum of 4000 merks thereof; and to the ſaid G. D. and and heirs of her body, and aſſignees, by contract of marriage allenarly, or in caſe of marriage, and thereafter deceaſing within year and day, without a living child procreate in the ſaid marriage, to the perſons after-named, the ſum of 4000 merks thereof; and to the ſaid G. D. and heirs of his body, and aſſignees, after his majority allenarly, the ſum of 4000 merks; and which particular ſums provided to the ſaid ſeveral children, in the whole completes the ſaid ſum of 33000 merks money above-ſpecified, deſtinated and appointed by me for them in manner above expreſſed; and failing of the ſaid children, without heirs of their own bodies, or without aſſignations made of their portions, by contract of marriage, as to the females, and after majority, as to the males *reſpectivè*, as ſaid is, I oblige me, and my foreſaids, to pay the ſaid reſpective portions, in the caſes above and after ſpecified, to the perſons after mentioned, according to the diviſion and ſubſtitution following, *viz.* Failing of the ſaid A. D. my eldeſt daughter by deceaſe, without heirs of her body, or aſſignation made by her of portion by contract of marriage, in manner foreſaid, the ſum of 2000 merks of her ſaid portion to J. D. my eldeſt lawful ſon, and his heirs and aſſignees, and the ſum of 4000 merks thereof to the ſaid C. D. and to her heirs and aſſignees above ſpecified, and the other 2000 merks of the ſame to the ſaid G. D. and her heirs and aſſignees above mentioned; and failing of the ſaid W. D. my ſecond ſon, by deceaſe, without heirs of his body, or aſſignation made by him of his ſaid portion, after his majority, the ſum of 5000 merks of his portion to the ſaid N. D. my third ſon, and to his ſaid heirs and aſſignees, and the other 3000 merks thereof to the ſaid J. D. my eldeſt lawful ſon, and to his heirs and aſſignees above ſpecified; and failing of the ſaid N. D. by deceaſe, without heirs of his own body, or aſſignation made by him of his ſaid portion after his ſaid majority, the ſum of 3000 merks of his ſaid portion to the ſaid G. D. my fourth lawful ſon, and to his heirs and aſſignees above ſpecified, and the other 2000 merks of the ſame to the ſaid J. D. my eldeſt lawful ſon and his foreſaids; and failing of the ſaid C. D. by deceaſe, without heirs of her body, or aſſignation made by her of the ſaid portion by contract of marriage, or in caſe of her marriage, deceaſing within year and day thereafter, without a living child procreate in the ſaid marriage, the ſum of 2000 merks of her ſaid portion to the ſaid G. D. and her heirs and aſſignees above ſpecified, and the other 2000 merks of the ſame to the ſaid J. D. my eldeſt lawful ſon, and to his heirs and aſſignees; and failing of the ſaid G. D. by deceaſe without heirs of her body, or aſſignation made by her by contract of marriage of her ſaid portion, or in caſe of marriage, and deceaſing within year and day thereafter, without a living child procreate therein, the ſum of 2000 merks thereof to the ſaid G. D. her heirs and aſſignees above ſpecified, and the other 2000 merks of the ſame to the ſaid J. D. my eldeſt lawful ſon, and to his heirs and aſſignees; and failing of the ſaid G. D. by deceaſe, without heirs of his body, or aſſignation made by him of his ſaid portion after majority, as ſaid is, the ſum of 2000 merks thereof to the ſaid N. D. and to his heirs and aſſignees

above ſpecified, and the other 2000 merks of the ſame to the ſaid J. D. my eldeſt lawful ſon, and his foreſaids; and failing of the ſaid J. D. my eldeſt lawful ſon, by deceaſe without heirs-male of his body, ſo that the ſaid W. D. my ſecond ſon, ſhall ſucceed me in my lands and eſtate, then, and in that caſe, the ſaid portion of 8000 merks, now provided to the ſaid W. D. to be paid as follows, *viz.* 5000 merks thereof to the ſaid N. D. and to his heirs and aſſignees above ſpecified, and the other 3000 merks of the ſame to the ſaid G. D. and his foreſaids, and all the ſaid portions to be paid to the ſaid children and their foreſaids; and failing of any of them, and in the reſpective caſes, to the other perſons above named ſubſtituted by me therein, in manner above ſpecified, and their foreſaids, with the ſum of 1000 pounds money foreſaid of liquidate expences for each of the ſaid ſums of 8000 merks, in caſe of not-payment, and the ſum of 600 pounds money foreſaid, of liquidate expences for the ſaid ſum of 5000 merks, in caſe of not-payment, and the ſum of 400 merks money above ſpecified, for each of the ſaid ſums of 4000 merks, in caſe of not payment, and that by and attour, and over and above the ſaid reſpective portions of the ſaid haill principal ſum, according to the diviſions above written, and together therewith; together alſo with the due and ordinary annualrent and profit of the ſaid principal ſum, according to the reſpective portions and proviſions above ſpecified, conform to the act of parliament, made, or to be made anent annualrents, and that yearly, termly and continually, during the not payment thereof, after the ſaid term or time appointed for payment of the ſame: And notwithſtanding of the foreſaid portions and proviſions granted by me to my ſaid younger children, and ſubſtitution and deſtination above mentioned, in the reſpective caſes above expreſſed, yet it is hereby expreſly provided and declared, that it ſhall be ſtill leiſome and lawful to me, and in my power, at any time in my lifetime *(etiam in lecto ægritudinis et in articulo mortis)* to diminiſh and leſſen the ſaid portions, or to alter and augment the ſame, if by the deceaſe of any of the ſaid male children before majority, or, failing of my eldeſt ſon of the ſaid W. D. my ſecond ſon ſucceed, as ſaid is, or by the deceaſe or not marriage of any of the ſaid females, or, being married, that they, or any of them, ſhall happen to deceaſe within year and day without a living child procreate in the marriage, any benefit fall by the ſubſtitution and former deſtination made and appointed by me, in manner foreſaid, and that by a writ apart under my own hand, ſignifying my pleaſure, as to any ſuch diminution, augmentation or alteration; and which paper or writ apart, under my hand, I hereby will, appoint and declare to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as, by the tenor hereof, it had been ſo expreſly done and ſet down, albeit not ſo done; whereanent I, for me and my heirs, executors, and children aforeſaid, have diſpenſed, and by theſe preſents, diſpenſes for ever, and with and under the which expreſs proviſion, declaration, power and faculty, theſe preſents are granted and accepted, and no otherways. And further, I hereby will and declare, that the foreſaid portions and proviſions, as they now are, (or by my ſaid writ apart may be augmented, diminiſhed or altered, as ſaid is) are and ſhall be to my ſaid younger children, in

full

full contentation and plenary satisfaction of all former provisions made by me to them, by bonds of provision, testament, or any other writ, and of all executry, legacy, portion-natural, bairns part of gear, and what else they may ask, seek, or crave, by or through my decease, when the same shall happen (reserving my own good will allenarly.) And, *lastly*, I hereby declare, that the not-delivery of this bond of provision to my said children in my own lifetime, but that the same remain by me, and in my custody, or given to my wife, or other friend, for their use, shall be no nullity or ground of reduction, declarator, or other action of law, whereupon to reduce, quarrel, impugn, or bring the same in question in the least, and dispenses therewith, and renounces and discharges the same in favours of my said younger children, and their foresaids, for ever; and appoints, ordains and wills the same to be as valid, firm and sure an evident to them, as if actually delivered by me to them in my own lifetime, yea, at the granting hereof; but prejudice always, and nevertheless, to me of the benefit of the said provision, declaration, power and faculty conceived in my own favours, and reserved to myself, personally, during my lifetime, in manner, and in the terms above expressed; consenting these presents be registered, *&c.*

Nota, Other parents, not having such a competent personal estate as may provide their younger children, but withal an opulent real estate, and not judging it safe or convenient to have their portions depend simply upon a personal security, lest it prove *in fine* a ground of appriſing or adjudication against the heir, through bad and untimeous payment of annualrents, or principal sum, and thereby create animosities and breach of brotherly kindness betwixt them and their elder brother and vice parent, who should rather do them duty and protect them, than suffer them to want, or oblige them to legal diligence; therefore, and to put matters out of question, the father grants a bond, and probably in the terms of the preceding stile, or the like: *And for their farther security, and but hurt or derogation to the personal obligation or innovation thereof in any sort, but in farther corroboration of the same,* accumulando jura juribus, *he obliges himself, his heirs and successors, to infeft and seise them, their heirs and assignees, in the terms of the bond, which failling, to the other persons substituted, and their heirs and assignees, according to the division in the said bond, in such and such lands, &c.* which stile I omit, but refer you to the stile of the heritable bond, being the second, in this fifth part of the system of stiles, page 364; only remember, 1. That in this, being an heritable security conceived in favours of several children, whereas the former, to which ye are referred, is but in favours of one person, ye must, in the obligement to infeft, procuratory of resignation, warrandice, assignation to the writs and evidents, if such be insert, mails and duties, reversion, requisition, and precept of seisin, always say, *each one of them for their own parts, as said is*; and the reason of the difference is clear, because of the greater and lesser portions. 2. Remember, that immediately before the clause of registration, ye insert the faculty reserved by the father to himself; and should ye insert the same, and rather, in the procuratory of resignation, immediately before acts, instruments and documents, *ad longum*, and thereafter, all alongst, but generally thus, *with and under the express condition, provision, power and faculty above mentioned*, ye do better, and so I practise.

Some parents in heritable bonds of provision of children, insert reversions, by which the lands are redeemable at any term by the heir, but no requisition for the money: an act so unreasonable, I could never yet comprehend; for as to the males, it precluded them of trades, and what virtuous; whereas, were they masters of their portions, their fortunes, by the blessing of God, might have amounted to an higher pitch than that of the eldest; and should the estate fall low, by a course of Providence, a younger son might prove a support to,

and a mean to preſerve it: for a bunch of arrows is not ſo eaſily broke as one by one, which may be done with leſs difficulty; and unity in a family, is a great cement and bleſſing of God, and not the ſmalleſt prop to perpetuate the ſame. And in the next place, as to the females, there is as little, if not leſs reaſon to have their portions without requiſition, becauſe it may prove a ſtop to their better fortune in marriage; for a gentleman may have a good fortune, and yet in ſome debt, and ordinarily does lay ſtreſs upon his tocher. And to conclude this point, whatever a father gives, albeit the leſs, let both the males and females be maſters of it, and that obliges the elder brother and heir, to be frugal and virtuous.

Another inconveniency I have ſeen in bonds of proviſion, when the father made the portions payable only to the males at their twenty-one years of age, and to the females at their ſixteen, or marriage; and, beſides other inconveniencies that might be inſtanced, I ſum up all in this one, That before theſe years, the eldeſt ſon contracted debt, and put all away, albeit the fortune opulent at will; and the younger children having no tutors left them, but all committed to the elder brother, there was no diligence by inhibition uſed, and which was all that was poſſible, the term of payment not come, and ſo the other creditors appriſed and evicted the fortune, and the younger children redacted to poverty; and this might have been obviated at firſt, by making the term within year and day after the father's deceaſe, with annualrent from the deceaſe to the term, and thereafter during the not payment, or notwithſtanding of the years to which the payment was ſuſpended, had it been expreſly provided, that in caſe of not punctual payment of the annualrent twice a-year, whether Whitſunday and Martinmas, or Candlemas and Lammas, as the father pleaſed, or in caſe any other perſon uſed diligence, whether perſonal or real, againſt the heir of the granter, and his perſon or eſtate, then it ſhould be lawful to, and in the power of the younger children, and their heirs and aſſignees, tutors and curators, to uſe the like diligence within twenty-four hours thereafter; and now as then, and then as now, the granter of the bond might have obliged himſelf and his heirs to pay principal ſum, with annualrent and expences as in the bond, and that within the ſaid ſpace of twenty-four hours after any ſuch diligence, or failure in payment of annualrent, notwithſtanding of the years of ſuſpenſion above mentioned; and in this caſe, the poor children had not loſt their portions. And albeit the elder brother had been left tutor, or that they wanted tutor or curator, the Lords, upon a true repreſentation of the caſe, and the danger they and portions were in, would have allowed them tutors, if within the years of pupillarity; and if paſt that, the children might have choſen curators.

There are ſeveral other ways how a parent may provide the younger children, as by aſſignations to reſponſal mens bonds, if ſuch he have, or if his executry and other perſonal eſtate be of that value, and of free gear, as may amount to what he intends to confer upon them patrimonially, he may appoint a friend or other faithful truſtee to be his executor, and give him the *nudum officium*, and by his teſtament, legate to each child as to him ſhall ſeem good; or there being a tutor nominate, may make themſelves executors, according to their ſeveral proviſions intended; yea, failing of any one or more of them, he may provide the portion of the perſon or perſons deceaſed, to the ſurviving children; and ſhould the executry, (I mean free gear, after debt, funeral charges, ſervant fees, houſe mails, and the like, and even aliment of the family to the term, firſt deducted,) not amount to what the father is willing to confer upon the younger children, he may ſupply the ſame by a bond of proviſion affecting the heir; but this bond would be *in liege pouſtie*, and not on death bed, elſe it will not do, ſo as to affect the heir or heritage.

I have alſo ſeen a gentleman lend out a conſiderable ſum to another reſponſal perſon, and having many younger children, took an heritable bond to himſelf in liferent, and to his younger children, of both ſexes, in fee, yea, in the very terms, and with the very ſubſtitution mentioned in the bond of proviſion formerly ſet down, and with the ſame faculty therein expreſſed; and as I drew it myſelf, ſo the infeftment thereon was expede the ſeals in December 1685; and he that is curious may find it at the chancery or privy ſeal. And ſo I paſs it with this ſhort account, ſeeing, by what ſaid, men may provide younger children

dren with ſafety, and not ſplit upon the foregoing rocks of long terms to the payment of portions, without a ſafe-guard againſt the inconvenience inſtanced, or want of requiſition, or not providing them whilſt in perfect health, and going to church and market.

BOND *by an Incorporation for a Sum of Money borrowed for the Uſe of the ſaid Incorporation, and ſo a publick, not a private Debt.*

BE it known to all men, by theſe preſent letters, us G. W. deacon, and J. W. box-maſter of the fleſhers in the Canongate, J. A. A. D. W. A. J. N. W. D. and ——— box-maſters of the ſaid craft, for ourſelves, and in name and behalf of, and as repreſenting the haill members and brethren of the ſaid craft: Forasmuchas A. C. his Majeſty's maſter-ſlater, as at our earneſt deſire and requeſt, advanced, paid and delivered to us (towards the furniſhing and completing of our new market-place in the Canongate in timber and ſlate, viſibly tending to our perpetual being, and ſubſiſtence of our calling) all and haill the ſum of ——— uſual money of this realm, whereof we, for ourſelves and our ſucceſſors in the ſaid craft and incorporation, hold us well content, renounce all exceptions in the contrary; and diſcharges the ſaid A. C. his heirs and executors of the ſame, for now and ever: Therefore, wit ye us to be bound and obliged, likeas we, by theſe preſents, faithfully bind and oblige us, conjunctly and ſeverally, and our ſucceſſors in place and office, and the ſaid craft and haill members and brethren thereof, thankfully to content, pay, and again deliver the ſaid ſum of ——— money foreſaid, truly advanced to us, and applied for the uſe and behoof of the ſaid caft, as ſaid is, to the ſaid A. C. and B. H. his ſpouſe, the longeſt liver of them two, in conjunct fee and liferent, and to the heirs and bairns lawfully procreate, or to be procreate betwixt them; which failing, to the ſaid A. C. his other heirs and aſſignees whatſoever, ſecluding executors, and that betwixt the date hereof and the feaſt and term of Martinmas 1678 years, or at any time or term therafter they pleaſe (yea, at any term of Whitſunday or Martinmas before then, in caſe we fail in punctual payment of annualrent, in manner after mentioned) with the ſum of ——— money foreſaid, of liquidate expences, in caſe of failzie; and however the payment of the ſaid principal ſum be in kindneſs ſuſpended to the ſaid term of Martinmas 1678, (without the benefit thereof be contravened, in manner under written) yet we hereby bind and oblige us, and our foreſaids, and the ſaid craft and incorporation, conjunctly and ſeverally, in manner foreſaid, to content and pay to the ſaid A. C. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, the due and ordinary annualrent and profit of the ſaid principal ſum yearly, at two terms in the year, Whitſunday and Martinmas, by equal portions, beginning the firſt term's payment of the ſaid annualrent at the term of Whitſunday next, for the term immediately preceding, and ſo forth yearly and termly thereafter, at the ſaid terms, and by equal portions, as ſaid is, during the not-payment of the ſaid principal ſum,

ſum, with the ſum of ——— money foreſaid, for each term's failzie, in not payment of the ſaid annualrent, in caſe thereof, and that by and attour the ſaid annualrent, and together therewith; but prejudice always to the ſaid A. C. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, to ſuit execution for the ſaid ſums at the ſaid term appointed for that effect, or at any other term or time thereafter they pleaſe, yea, at any term before the ſaid term of payment, in caſe of not termly payment of annualrents, in manner above expreſſed; likeas we hereby renounce in their favours the benefit of the act of retention of one of ſix of the hundred of the ſaid annualrents, and all other acts of that nature, or acts ſuſpending the payment of principal ſums, made, or to be made within this kingdom. And it is hereby declared, that the foreſaid ſum of —— provided to the ſaid B. H. in liferent, and to the heirs and bairns of the marriage betwixt her and the ſaid A. C. as ſaid is, is and ſhall be to them in implement of the meiting to her tocher, whereunto the ſaid A. C. is obliged, by the contract of marriage paſſed betwixt them, *pro tanto*. And for the more ſecurity, we are content, and conſent theſe preſents be inſert and regiſtered, *&c.*

Another BOND *of the ſame Nature, by an Incorporation, but of a different Style.*

WE, R. P. preſent deacon, W. R. preſent box-maſter, J. D. W. B. T. L. G. R. R. L. J. W. N. M. G. C. J. B. J. H. R. P. J. C. and J. M. all preſent maſters and brethren of the incorporation of the cordiners of the Canongate, by theſe preſents, grant us to have borrowed and received (for the uſe and behoof of the ſaid trade and incorporation) from S. Z. relict of umquhile J. S. ſkipper in Leith, all and haill the ſum of ——— Scots money, whereof we grant the receipt, hold us well content, ſatisfied and paid, renounce the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that can be proponed or alledged in the contrary; and diſcharge her and her heirs, executors, and all others whom it effeirs, of the ſame, for now and ever; which ſum of ——— money foreſaid, with the due and ordinary annualrent thereof, from the term of Lammas laſt bypaſt, to the term of payment under written, we for ourſelves, and taking burden in and upon us, for the remanent maſters and brethren of the ſaid trade and incorporation, by theſe preſents, bind and oblige us, and our ſucceſſors in place and office, and lands and heritages pertaining and belonging to the ſaid incorporation, thankfully to content, pay, and again deliver to the ſaid S. Z. ſhe being on life, and failing of her by deceaſe, to J. S. her ſon, and to his heirs and aſſignees, ſecluding executors, and that betwixt the date hereof and the feaſt and term of Candlemas next to come, in the year ——— but longer delay, with the ſum of ——— money foreſaid of liquidate expences, in caſe of failzie, attour the ſaid principal ſum, and together therewith; together alſo with the due and ordinary annualrent of the

ſaid

ſaid principal ſum, conform to the act of parliament and laws of this kingdom, and that yearly, termly, quarterly and proportionally, ay and ſo long as the ſaid principal ſum ſhall happen to remain unpaid, after the term of payment above written, but prejudice always to them to ſuit execution hereupon, for payment of the ſaid ſums at the ſaid term of payment, or at any other term or time thereafter they pleaſe, without any premonition or requiſition to be made by them for that effect; reſerving always full faculty and power to the ſaid S. Z. at any time during her lifetime, to uplift, receive and diſcharge, or to aſſign and diſpone upon the foreſaid principal ſum, annualrents and expences, to any perſon or perſons, as ſhe ſhall think fit, without conſent of the ſaid J. S. her ſon, or his foreſaids, or of their tutors or curators, albeit minors for the time, or had obtained for that effect, ſicklike and as freely in all reſpects, as the ſaid J. S. his name had never been inſert in this preſent bond, but that theſe preſents had been taken by the ſaid S. Z. in her own name, and the ſaid ſums ſimply and abſolutely payable to herſelf, her heirs and aſſignees. *(The clauſe of regiſtration follows.)*

CONTRACT *of Wadſet, (being a proper Wadſet) containing real Warrandice in other Lands, as well as abſolute Warrandice, Clauſe of Requiſition, and other Clauſes, in good Form.*

AT ——— the —— day of ——— 17— years: It is appointed, contracted, finally agreed and ended betwixt the parties following; they are to ſay, The right worſhipful Sir A. A. of G. Knight, heritable proprietor of the lands and others after ſpecified, both principal and warrandice, with the pertinents, with conſent of D. H. M. his ſpouſe, for all right of liferent, terce, or others whatſoever, which ſhe has or may pretend thereto, and the ſaid D. H. M. for herſelf, her own right and intereſt, with conſent of her ſaid huſband, and both of them, with one conſent and aſſent, and he taking burden in and upon him for her, to the effect after mentioned, on the one part, and G. S. advocate, and M. S. his ſpouſe, and them both with one conſent and aſſent on the other part, in manner following; that is to ſay, Foraſmuchas the ſaid G. S. has inſtantly advanced, paid and delivered to the ſaid Sir A. A. (for out-redding of his lawful and neceſſary affairs, and relief and payment of his debts and burdens *pro tanto*) all and haill the ſum of ——— good and uſual money of this realm, (2) whereof the ſaid Sir A. A. with conſent of his ſaid ſpouſe, and both of them with one conſent, hold them well content, ſatisfied and paid, and for them, their heirs and executors, exoner and diſcharge the ſaid G. S. and his ſaid ſpouſe, their heirs and executors, and all others whom it effeirs, of the ſame, (renouncing the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary thereof) for now and ever: Therefore, the ſaid Sir A. A. with conſent foreſaid of the ſaid D. H. M. his ſpouſe, and the ſaid D. H. M. for herſelf, for all right of liferent,

terce,

terce, or others whatsoever, which she has, or may claim, or pretend to the lands and others under written, both principal and warrandice, with the pertinents, with consent of her said husband, for his interest, and they both with one consent and assent, and he taking burden in and upon him for her, to the effect after expressed, have sold, annalzied and disponed, and by these presents, sell, annalzie and dispone to the said G. S. advocate, and the said M. S. his spouse, the longest liver of them two, in conjunct fee and liferent, and to the heirs lawfully gotten, or to be gotten betwixt them in fee; which failing, to the said G. S. his other heirs and assignees whatsoever, heritably, with and under the condition of reversion, and other provisions and reservations after specified, in manner after mentioned, all and haill the said Sir A. A. his lands of A. and ——— called ——— with the manor-places, houses, biggings, yards, orchards, dove-cots, cunningaries, fishings, parts, pendicles, annexes, connexes, dependencies, tofts, crofts, outsets, and all their pertinents, lying in the parish of T. regality of S. constabulary of H. and sheriffdom of E. and all and haill the kirk-lands of ——— with the houses, biggings, yards, *&c.* and all their pertinents whatsoever, lying within the town and territory of A. lordship, barony, regality, constabulary and sheriffdom foresaid, with advocation, donation, and right of patronage of the parsonage and vicarage of the kirk of ——— teinds parsonage and vicarage thereof, and all profits and commodities of the same (reserving to the said Sir A. A. and his said spouse, and their heirs and assignees, forth of the said disposition, four acres of ——— belonging to the links of ———) together with all right, title, interest, claim of right, property and possession, petitor and possessor, which the said Sir A. A. and the said D. H. M. his spouse, their heirs and successors, had, have, or any ways may have, claim or pretend thereto, or to the mails and duties thereof, stock and teind, and that in so far allenarly as may be extended to twelve chalders victual yearly, whereof ——— chalders ——— bolls ——— firlots wheat, and ——— chalders of oats, free of all feu and teind-duties, ministers stipends, cess, and other burdens and impositions whatsoever, and by and attour the manor-place of A. houses, biggings, *&c.* thereof, and pasturages of an horse and a cow to the said G. S. his said spouse, and their foresaids, on the said lands of A. and that as for the principal; and all and haill the lands of S. with the tower, fortalice, *&c.* and all pertinents thereof, privileges and commodities, as well by sea as by land, within the old bounds, marches and meiths of the same; together with privilege and liberty in the muir of T. for pasturage of goods, and winning of divots, and other duties pertaining to the said commonty, and other pertinents thereof, lying within the lordship and barony of ——— and sheriffdom of ——— and that in real and special warrandice and security to the said G. S. his said spouse, and their foresaids, of the said lands, teinds, and others principally above disponed, with the pertinents; so that if it shall happen the same, or any part thereof, to be evicted from the said G. S. his said spouse, and their foresaids, through default or defect of the rights thereof, or through or by any deed of the said Sir A. A. or his predecessors and authors, then, and in that case, the said G. S. his said spouse, and their foresaids, shall have full and free regress, ingress,

and

and access in and to so much of the said lands immediately above written, disponed in warrandice, as said is, as will correspond and be equivalent (in quantity, quality, and yearly duty) to the said principal lands, or any part thereof that shall happen to be evicted, in manner foresaid; and immediately after the said eviction, it shall be lawful to the said G. S. his said spouse, and their foresaids, to enter to the said lands, disponed in warrandice, and to the uplifting of the duties thereof (at least of so much of the same as shall be equivalent to the said eviction) *brevi manu*, at their own hands, without any necessity of warning or declarator to follow thereupon, and without any peril of ejection, intrusion, or others, to be incurred by them therethrough, renouncing and discharging the same for ever, during the not-redemption thereof, by virtue of the reversion after specified. And the said Sir A. A. with consent of his said spouse, and he taking burden on him for her, as said is, by these presents, binds and obliges him, his heirs and successors, with all convenient diligence, next after the date hereof, duly and sufficiently to infeft and seise, by charter and seisin, *titulo oneroso*, in due and competent form, the said G. S. and his said spouse, the longest liver of them two, in conjunct fee and liferent *respectivè*, and the heirs lawfully gotten, or to be gotten betwixt them; which failing, the said G. S. his other heirs and assignees whatsoever, heritably, under reversion, in manner after mentioned, in all and haill the foresaid lands, *&c.* and others above disponed, with the pertinents, principal and warrandice, lying as said is, and excepting and reserving, in manner foresaid, and in so far as may be extended to the foresaid free rent of twelve chalders victual, by and attour the manor-place of A. and pasturage of an horse and cow on the lands of ——— in manner above rehearsed, and that by two several infeftments and manner of holdings, the one thereof to be holden of the said Sir A. A. his heirs and successors, in manner *respectivè* following, *viz.* The one equal half of the said lands of A. with the lands called S. with the pertinents, in feu-farm and heritage, for payment of ten shillings Scots money yearly, at two terms in the year, Whitsunday and Martinmas, by equal portions, in name of feu-farm, and the other equal half of the said lands of ——— and remanent other lands, and others above written, with the pertinents, to be holden of the said Sir A. A. and his foresaids, in free blench-farm, for payment of a penny Scots money, upon the ground of the said lands yearly, at the feast of Whitsunday, in name of blench-farm, if it be asked allenarly, and the other of the said infeftments to be holden from the said Sir A. A. and his foresaids, of his immediate lawful superiors thereof, as freely in all respects, as they hold, or may hold the same themselves, and that either by resignation or confirmation, as best shall please the said G. S. his said spouse, and their foresaids, the acceptation of the one of the said infeftments to be no ways prejudicial to the other; and for that effect, to make, grant, subscribe and deliver to the said G. S. his said spouse, and their foresaids, sufficient dispositions, containing procuratories of resignation, charters, containing precepts of seisin, and other securities requisite and necessary for infefting and securing

them in the ſaid lands, teinds, manor-place, and others above diſponed, with the pertinents, both principal and warrandice, and reſerving, as ſaid is, containing ample clauſe of warrandice, and other clauſes needful, in ſuch ample, due and competent form as accords; the paſſing and expeding of the ſecurities and infeftments, and obtaining the ſuperior's conſent and confirmation, to be always upon the proper moyen, charges and expences following, *viz.* Two parts thereof on the charges of the ſaid Sir A. A. and the other third part of the ſame on the ſaid G. S. his charges; and for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of the foreſaid other infeftment above written, the ſaid Sir A. A. with conſent of the ſaid D. H. M. his ſpouſe, and ſhe for herſelf, with his conſent, and both of them with one conſent and aſſent, and he taking burden in and upon him for her, to the effect after ſpecified, have made, conſtituted and ordained, and by theſe preſents, make, conſtitute and ordain ——— —— and each one of them, conjunctly and ſeverally, their very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand-bearers, to the effect after mentioned, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, their very full, free, plain power, expreſs bidding, mandate and charge for them, in their name, and upon their behalf, to compear before the reſpective lawful ſuperiors of the ſaid lands, and others above diſponed, with the pertinents, both principal and warrandice, or their commiſſioners in their names, having their power to receive reſignations, and thereupon to grant new infeftments, any day and place lawful and convenient, and there, with all due humility and condign reverence as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas the ſaid Sir A. A. and his ſaid ſpouſe, both with one conſent and aſſent foreſaid, and taking burden as ſaid is, by theſe preſents, reſign, ſurrender, overgive and deliver all and haill the ſaid Sir A. A. his lands of A. and ——— called ——— with the manor-place, *(here take in all the lands and others, as in the diſpoſitive clauſe, with the reſervation, and then ſay)* and that as for the principal; and all and haill the lands of S. with the tower, fortalice, *&c. (here take in all relating to the real warrandice lands alſo, as in the diſpoſitive clauſe, and then ſay)* and that in real warrandice and ſecurity to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, of the ſaid lands, tirhes, and others principally above diſponed, with the pertinents, ſo that if it ſhall happen the ſame, or any part thereof, to be evicted from the ſaid G. S. his ſaid ſpouſe, and their foreſaids, through default or defect of the rights thereof, or through, or by any deed of the ſaid Sir A. A. or his predeceſſors and authors, then, and in that caſe, the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall have full and free regreſs, ingreſs, and acceſs in and to ſo much of the ſaid lands immediately above written, diſponed in warrandice, as ſaid is, as will correſpond and be equivalent, in quantity, quality and yearly duty, to the ſaid principal lands, or any part thereof that ſhall happen to be evicted, in manner foreſaid; and immediately after the ſaid eviction, it ſhall be lawful to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, to enter to the ſaid lands, diſponed in warrandice, and to the uplifting of the duties thereof, at leaſt of ſo much of the ſame as ſhall be equivalent to the ſaid evic-

tion,

tion, *brevi manu*, at their own hand, without any neceſſity of warning or declarator to follow thereupon, and without any peril of ejection, intruſion, or others, to be incurred by them therethrough, renouncing and diſcharging the ſame for ever, during the not redemption thereof, by virtue of the reverſion after ſpecified, in the hands of the ſaid Sir A. A. his lawful ſuperiors above mentioned, or their commiſſioners aforeſaid, in favours, and for new infeftment of the ſame, as principal, and in real warrandice *reſpectivè*, to be made and granted to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, and heritably, and under reverſion, as ſaid is, and with and under the exception and reſervation above expreſſed, to be holden of the ſaid ſuperiors, in ſuch due and competent form as accords, acts, inſtruments and documents, *&c.* and generally, *&c.* promiſing to hold firm and ſtable, *&c.* *(as in former procuratories of reſignation, and then ſay)* and which infeftments *reſpectivè* above written, and either of them, ſhall bear and contain this expreſs clauſe of warrandice following: Likeas now, as if the ſaid infeftments, and either of them were already made and paſt, and then as now, the ſaid Sir A. A. with conſent of his ſaid ſpouſe, binds and obliges him and his foreſaids, to warrant, acquit and defend the ſaid infeftments, and either of them, and lands and others *reſpectivè* particularly above diſponed, with the pertinents, both principal and warrandice, to be ſufficient, free, ſafe and ſure to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, from all and ſundry wards, reliefs, non-entries, marriages, eſcheats, liferents, forfeitures, recognitions, diſclamations, purpreſtures, baſtardies, laſt heir, inhibitions, interdictions, appriſings, adjudications, conjunct fees, liferents, ladies terces, annualrents, former alienations, private and publick infeftments, reverſions, renunciations and grants of redemption, tacks, aſſedations long or ſhort, reductions of infeftments, ſervices and retours, nullities, and from all and ſundry other perils, burdens, dangers, inconveniencies, and grounds of eviction whatſoever, as well not named as named, bygone, preſent as to come, which may any ways ſtop, trouble or impede the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in the peaceable poſſeſſion of the ſaid lands, and others above diſponed, with the pertinents, during the not redemption thereof after ſpecified, at all hands, and againſt all deadly, as law will, and to purge the ſame of all inhibitions, appriſings, adjudications, infeftments, annualrents, and other real burdens being thereupon, and wherewith the ſame ſtands any ways affected in any ſort, in manner *reſpectivè* following, *viz.* to purge the ſaid principal lands betwixt and the term of Martinmas next, and the ſaid other lands diſponed in real warrandice thereof, betwixt and the firſt day of June 17— years, but longer delay, eſpecially ſuch real incumbrances as ſhall be condeſcended upon by the ſaid G. S. or his foreſaids, betwixt and the time foreſaid; and for that effect, ſhall employ the firſt and readieſt of the ſaid ſums, now paid and advanced to him by the ſaid G. S. for purging of the ſaid lands of the burdens wherewith the ſame ſtands any ways really affected, in manner foreſaid: And it is hereby declared, that the foreſaid perſonal and abſolute warrandice ſhall be no ways prejudicial to the real warrandice above written, nor the real to the perſonal and abſolute, but that it ſhall be ſtill lawful to, and in the power of the ſaid G. S. his

ſaid ſpouſe, and their foreſaids, to make uſe of both, or either of them, either conjunctly or ſeverally, the one but prejudice of the other, for their ſecurity of the ſaid lands and others foreſaid, at their pleaſure, and in their option, in time coming, during the not redemption, by virtue of the reverſion after mentioned: Providing always, likeas it is hereby ſpecially provided and declared, that if any action of eviction of the ſaid lands and others foreſaid, ſhall at any time hereafter happen to be intented againſt the ſaid G. S. his ſaid ſpouſe, and their foreſaids, which may anyways infer warrandice againſt the ſaid Sir A. A. and his foreſaids, that then, and in that caſe, the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall be holden and obliged, and by theſe preſents bind and oblige them, to make due and lawful intimation of the ſaid actions of eviction, to the ſaid Sir A. A. and his foreſaids, perſonally, or at their dwelling-places, and in ſupplement thereof, if they be then abſent forth of the kingdom, at the market croſs of Edinburgh, pier and ſhore of Leith, in preſence of a notary and witneſſes, as effeirs, and that before any litiſconteſtation be made in the ſaid actions of eviction, to the effect the ſaid Sir A. A. and his foreſaids, may appear and concur in the defence thereof, as accords; and whatever charges and expences the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall happen to expend and diſburſe in the purſuit or defence of the right of the ſaid lands, the ſaid Sir A. A. binds and obliges him and his foreſaids, to repay the ſame to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, conform to a particular accompt thereof to be given in by them to the ſaid Sir A. A. and his foreſaids, upon their honeſt word and credit; and for the better purſuit and defence of the ſaid actions, the ſaid Sir A. A. by theſe preſents, binds and obliges him and his foreſaids, to exhibite and make forthcoming to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, the haill contracts, diſpoſitions, charters, ſeiſins, retours, procuratories, and inſtruments of reſignation, tacks and rights of the teinds, and other writs, evidents, rights, titles and ſecurities whatſoever, which the ſaid Sir A. A. has or ſhall obtain made to him or his predeceſſors and authors, of, upon, or concerning the ſaid lands and others above mentioned, and that at all occaſions needful, whenever the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall have neceſſarily to do therewith, and that upon inventory, mutually to be ſubſcribed thereanent, by both the ſaid parties, bearing an obligement upon the part of the ſaid G. S. his ſaid ſpouſe, and their foreſaids, for redelivery of the ſaid writs and evidents to the ſaid Sir A. A. and his foreſaids, after diſcuſſing and clearing of the ſaid actions and cauſes; excepting always forth and from the ſaid perſonal warrandice above written, a tack and aſſedation made and paſſed, by way of contract, betwixt the ſaid Sir A. A. on the one part, and J. K. in the A. of N. D. on the other part, of the date the —— day of —— 17— years, whereby the ſaid Sir A. A. ſet in tack and aſſedation to the ſaid J. K. his heirs and aſſignees, the lands and mains of A. with three chalders on the weſt ſide of the cloſe thereof, (*here were the reſt ſet, inſert, and then*) Reſerving forth of the ſaid tack, the manor-place of A. with the —— adjacent thereto, and the foreſaid four acres of the Links, belonging to —— and paſturage of ——, for the ſpace of —— years and crops after his entry thereto, which was and begun at —— 17— years, for payment yearly to the ſaid Sir A. A.

and

and his foresaids, or any other having his power, of the number and quantity of ——, extending to ——, and according to the market-measure of ——, during the said space of ——, beginning the first year's payment betwixt —— and ——, and so forth yearly thereafter, during the said tack; and the said J. K. obliged him and his heirs, upon their own horses and charges, to carry the said victual to ——, or any of the said places as they should be required, and to till, labour, &c. (*here the manner thereof, and how gooded insert*) the said —— belonging to the said Sir A. A. and reserved forth of the said tack, during the space thereof, the said Sir A. A. and his foresaids, furnishing them a shearer yearly in harvest, and to leave the straw and fodder of all sorts of grain that should grow upon the said lands of the —— the last year of the said tack, and to pay —— in case of failzie, attour performance, in manner specified in the said tack, and whereunto the foresaid warrandice shall no ways be extended: In respect whereof, the said Sir A. A. has made, constituted, and ordained, and by these presents, makes, constitutes and ordains the said G. S. his said spouse, and their foresaids, in liferent and fee *respective*, his cessioners and assignees, in, and to five chalders victual of the said tack-duty, of the ordinary measure of ——, whereof one chalder wheat, one chalder bear, and three chalders oats, and that of the crop and year 17—, payable betwixt Yule and Candlemas 17—, and in and to twelve chalders victual of the said tack-duty of the ordinary met and measure foresaid, whereof nine chalders wheat and bear, and three chalders oats, and that of the crop and year of God 17—, payable betwixt Yule and Candlemas 17—, and haill crops and years thereafter, during the space of the said tack, and after the expiring of the said tack, or the said J. K. his removing, to the mails and duties of the said lands, at least to twelve chalders victual thereof, of the quality above specified, of free rent, to be uplifted forth of the first and readiest of the rents and duties of the said lands yearly, of all crops and years thereafter, during the not redemption after mentioned, and in and to the haill remanent obligements, articles and clauses of the said tack, conceived in favours of the said Sir A. A. and his foresaids, and to all action, pursuit and instance whatsoever, competent, or that may be competent to the said Sir A. A. and his foresaids thereupon, with all that has followed or may follow upon the same, and surrogates them in the said Sir A. A. his full place thereof for ever, excepting and reserving to him and his foresaids, the foresaid four acres of land belonging to ——, together with the charity of the said victual, extending to thirteen bolls victual, during the space of the said tack, providing that the same be not uplifted and received by him and his foresaids, from the said J. K. and his foresaids, until such time as the foresaid twelve chalders victual, of the quality above specified, presently assigned to the said G. S. his said spouse, and their foresaids, of free rent, be first uplifted by them, and they completely satisfied and paid thereof, and before any payment to the said Sir A. A. and his foresaids: It is always hereby provided and declared, that the exception of the foresaid tack, out of the said warrandice, shall infer no ratification or approbation thereof, but that it shall be still leisome and lawful to, and in the power of the said G. S. his said spouse, and their foresaids, to reduce, quarrel, and impugn the same upon whatsoever grounds competent to them

them of the law, which may not infer warrandice againſt the ſaid Sir A. A. and his foreſaids: And farther, the ſaid Sir A. A. by theſe preſents, binds and obliges him and his foreſaids, preſently to make the manor-place and houſe of A. water-tight and wind-tight, and to build up the ſlaps and breaches of the yards and dykes, and to put ſufficient doors, locks and keys thereon, and inſtantly to enter the ſaid G. S. his ſaid ſpouſe, and their foreſaids, to the actual, real, void and peaceable poſſeſſion of the ſaid manor-place of A. and yards thereof, and remanent houſes and biggings of the ſame, at leaſt ſo much thereof as is not ſet in tack to the ſaid J. K. to be peaceably poſſeſſed, bruiked and enjoyed by them, during the not redemption of the ſame; likeas it is hereby declared, that it ſhall be lawful to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, to enter thereto *brevi manu*, without any peril of ejection or intruſion to be incurred by them therethrough, which the ſaid Sir A. A. for him and his foreſaids, renounces and diſcharges in their favours for ever; and the ſaid G. S. and his ſaid ſpouſe, bind and oblige them and their foreſaids, to leave the ſaid houſes and yards in as good caſe at the redemption thereof, and their removing therefrom, as they are at their entry, unleſs, as God forbid, the ſame be burnt, overturned and deſtroyed, by either publick calamity, or in a hoſtile manner; (6) with full power to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, to intromit with, aſk, crave and receive the ſaid mails and duties, and others above aſſigned, reſerving as ſaid is, and to convene, call, follow and purſue therefore as accords, and to occupy and poſſeſs the ſaid lands, teinds and others foreſaid, or ſet the ſame to tenants, with conſent of the ſaid Sir A. A. as they ſhall think expedient, and to make lawful warnings thereanent, decreets one or more, as need beis, in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put, acquittances and diſcharges to ſubſcribe and deliver, which ſhall be ſufficient to the receivers, and to do all other things which the ſaid Sir A. A. might have done therein himſelf, before the making hereof; and ſicklike, the ſaid Sir A. A. binds and obliges him and his foreſaids, to keep the ſaid lands in ſufficient tenandry, during the not redemption thereof, whereby the ſaid G. S. his ſaid ſpouſe, and their foreſaids may be yearly ſatisfied and paid of the ſaid twelve chalders victual, of the quality and meaſure above ſpecified, out of the firſt and readieſt of the rents thereof, free of all publick burdens, miniſters ſtipends, feu and teind duties, ceſs, maintenance, and other impoſition whatſoever, impoſed upon, or due and payable forth of the ſaid lands and others foreſaid; and whatſoever ſhall be wanting of the ſaid twelve chalders victual, of the meaſure and quality foreſaid, at the terms of payment above ſpecified, through default of the tenants preſent or to come, or by want of tenandry, or by any other manner of way whatſoever, the ſaid Sir A. A. binds and obliges him and his foreſaids, to make up the ſame, and make payment thereof, or prices of the ſame, to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, at the terms of payment above written, during the not redemption after ſpecified: And becauſe it is agreed upon betwixt the ſaid parties, that the ſaid twelve chalders ſhall be a free rent to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in manner above mentioned; therefore, and notwithſtanding of whatſoever

ver laws and acts of parliament or other laws, ſtatutes and conſtitutions made or to be made in the contrary thereof, whereanent the ſaid Sir A. A. and his foreſaids, diſpenſes for ever, the ſaid Sir A. A. binds and obliges him, upon his word of honour, never to make any uſe thereof, in prejudice of this preſent paction; and the ſaid Sir A. A. binds and obliges him, his heirs, executors and ſucceſſors, to warrant, free, relieve, and ſkaithleſs keep the ſaid G. S. his ſaid ſpouſe, and their foreſaids, of all and ſundry feu and blench-duties, taxt-ward, and for relief and marriages, taxations, miniſters ſtipends, communion elements, buildings and upholding of kirks and kirk yard dykes, ſchools and ſtipends thereof, annuities, taxt, loanmonies, monthly maintenances, ceſs, quarterings, outputting of levies, and outrieks of horſe and foot, and of all pains, penalties and fines incurred, or to be incurred for not doing thereof, and of all other ſtents and impoſitions whatſoever impoſed upon, or due and payable forth of the ſaid lands, teinds, and others *reſpectivè* and particularly above diſponed, with the pertinents, and that of all crops, years, terms, and months bygone, and in time coming, during the not redemption, at all hands, having, claiming, or pretending to have intereſt thereto in any ſort, and ſhall deliver to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, from time to time, ſufficient diſcharges of the ſaid duties and burdens and impoſitions yearly, or oftener, as they ſhall be required, or elſe ſufficient tranſumpts thereof; and in caſe the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall be diſtreſſed, diſtrenzied, or quartered upon therefore, and forced to make payment thereof, the ſaid Sir A. A. binds and obliges him and his foreſaids, to make payment to them of the ſame, and of all the ſaid quarterings and other damages and intereſt, that they ſhall ſuſtain therethrough, and are content while they be ſatisfied and paid, that they be eiked to the reverſion after ſpecified, in manner under written; ſo that until the ſame be fully paid or conſigned, no lawful redemption of the ſaid lands ſhall be reputed or holden; and in like manner, ſo long as it ſhall happen the ſaid G. S. his heirs, to hold the ſaid lands and others foreſaid, of the ſaid Sir A. A. and his foreſaids, he binds and obliges him and his foreſaids, to enter and receive them and their heirs ſucceeding to them in the ſaid right of wadſet, or any other perſon or perſons whatſoever, to whom they ſhall diſpone the ſame, *gratis*, freely, but any compoſition whatſoever; and if any other caſualty ſhall happen to fall in the hands of the ſaid Sir A. A. and his foreſaids, as ſuperiors, by reaſon of nonentry, ward, liferent-eſcheat, or otherways whatſoever, except allenarly, that it be for proper debt that ſhall be due by them to the ſaid Sir A. A. and his foreſaids, he, by theſe preſents, binds and obliges him and his foreſaids, to aſſign and diſpone the ſame caſualties *reſpectivè*; likeas now, as if the ſame were already fallen out, and then as now, he, by theſe preſents, *per verba de preſenti*, aſſigns and diſpones the ſame to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, alſo *gratis*, freely, but any compoſition: Attour, the ſaid Sir A. A. with conſent of the ſaid D. H. M. his ſpouſe, and ſhe for herſelf, with his conſent, and they both with one conſent and aſſent, and he taking burden on him for her, to the effect after ſpecified, by theſe preſents, ſets in tack and aſſedation, and for the mail and duty under written, lets to the ſaid G. S. and his ſaid ſpouſe, and longeſt liver of them two in conjunct fee

and

and liferent, and to the heirs lawfully procreate or to be procreate betwixt them, in fee, which failing, to the ſaid G. S. his other heirs and aſſignees whatſoever, heritably, all and haill the ſaid four acres of land pertaining to the links of A. reſerved and excepted in manner above mentioned, with the pertinents, and that for all the days, ſpace, years and terms of nine years, and nine crops next and immediately following the ſaid G. S. his ſaid ſpouſe, and their foreſaids, their entry thereto, which ſhall be, and begin at the ſeparation of the crop from the ground, crop and year 17—, and further to continue for all years thereafter, ay and while the haill foreſaid lands and others above mentioned, be lawfully redeemed, looſed and outquit, by virtue of the reverſion after ſpecified, with free iſh and entry thereto, and with all and ſundry other liberties and privileges belonging to the ſame; which tack and aſſedation the ſaid Sir A. A. with conſent foreſaid, by theſe preſents, binds and obliges him and his foreſaids, to warrant and defend to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, at all hands, and againſt all deadly, as law will; for the which tack and aſſedation, the ſaid G. S. and his ſaid ſpouſe, oblige them, and longeſt liver of them two, and their foreſaids, to make payment to the ſaid Sir A. A. and his foreſaids, of ſeven bolls of bear victual yearly, beginning the firſt year's payment betwixt Yule and Candlemas 17—, for the next 17— years, and ſo forth yearly thereafter, while the iſh and expiring of the ſaid tack, and to relieve the ſaid Sir A. A. at the hands of the ſaid J. K. preſent tenant, of a ſhearer yearly, in time of harveſt, mentioned in his ſaid tack, in manner above ſpecified. (8) And on the other part, the ſaid G. S. and M. S. his ſpouſe, and both of them, with one conſent and aſſent, and taking burden on him for her, by theſe preſents, bound and obliged them and their foreſaids, at the obtaining of the foreſaid infeftments, to make, grant, ſubſcribe and deliver to the ſaid Sir A. A. and D. H. M. his ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and the heirs-male lawfully procreate or to be procreate betwixt them, which failing, to the ſaid Sir A. A. his other neareſt lawful heirs-male and aſſignees whatſoever, heritably, a ſufficient letter of reverſion, for redemption of the ſaid haill lands, teinds, manor-places, houſes, *&c.* and others particularly above written, with the pertinents, both principal and warrandice, containing therein the foreſaid ſum of —— money foreſaid, to be paid and delivered whole and together in one ſum, in ſufficient gold or ſilver, having paſſage and courſe of payment within this kingdom, for the time, and all copper and braſs money excepted and ſecluded therefrom, to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, within St. Giles's kirk in Edinburgh, at that part thereof where the tomb of umquhile James Earl of Murray is ſituated, upon Whitſun-even, in *anno* ——, to the which term the foreſaid redemption is ſuſpended, or upon any Whitſun-even thereafter, betwixt the ſun-riſing and down-paſſing thereof, upon the premonition of forty days of before, to be made by the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, for that effect, in preſence of a notary and witneſſes as effeirs; and in caſe of their wilful abſence or refuſal to the receipt of the ſaid ſums, the ſame to be conſigned in the hands of the dean of guild or treaſurer of the ſaid burgh of Edinburgh, moſt reſponſal for the time, to be forthcoming

coming to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, upon the peril of the conſigners, and that for redemption, looſing and outquitting from the ſaid G. S. his ſaid ſpouſe, and their foreſaids, of the haill foreſaid lands, teinds, and others particularly above mentioned, with the pertinents, both principal and warrandice; and it is hereby declared, that it ſhall no ways be lawful to the ſaid Sir A. A. *&c.* to uſe the foreſaid order of redemption, until ſuch time as all by-runs and reſts of the foreſaid free rent of twelve chalders victual, of the meaſure and quality above mentioned, or prices of the ſame, (9) together with the haill feu and teind-duties, tack-duties, ceſſes and other burdens and impoſitions, if any ſhall happen to be paid by the ſaid G. S. his ſaid ſpouſe, and their foreſaids, be all firſt paid, numbered and down-told, with the ſaid principal ſum of —— and —— money above written of failzie and expences after ſpecified, in caſe the ſame be incurred, be all really paid, numerated and told down, with the ſaid principal, otherways no lawful redemption to be reputed nor holden: And further, it is hereby declared and agreed upon, betwixt both the ſaid parties, that this preſent contract, and condition of reverſion therein contained, ſhall be as valid and ſufficient to the ſaid Sir A. A. *&c.* for uſing of the foreſaid order of redemption, as if a particular letter of reverſion were duly and lawfully made, ſealed, ſubſcribed, delivered and regiſtered apart, with all ſolemnities requiſite, conform to the act of parliament, albeit the ſame be not ſo done; whereanent, and with all that may follow thereupon, both the ſaid parties, for them and their foreſaids, have diſpenſed, and by theſe preſents, diſpenſes for ever, notwithſtanding of whatſoever exception or objection that may be moved or proponed in the contrary; and in caſe the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall happen rather to deſire to have the foreſaid ſums repaid, than to retain the ſecurity thereof above written, then, and in that caſe, the ſaid Sir A. A. by theſe preſents, binds and obliges him and his foreſaids, thankfully to content, pay and deliver to the ſaid G. S. and M. S. his ſpouſe, the longeſt liver of them two, for her liferent uſe allenarly, and after their deceaſes, to the heirs lawfully begotten or to be begotten betwixt them, which failing, to the ſaid G. S. his other heirs and aſſignees whatſoever, all and haill the foreſaid ſum of —— merks, good and uſual money foreſaid, within the town of Edinburgh, at the term of Whitſunday-even, 17— years, to the which term, all requiſition for the ſaid principal ſum is ſuſpended, or at any other term of Whitſunday-even thereafter, the ſaid G. S. his ſaid ſpouſe and their foreſaids, pleaſe to have the ſame, upon the requiſition of forty days of before, to be made by the ſaid G. S. his ſaid ſpouſe, and their foreſaids, or their lawful procurators in their name, to the ſaid Sir A. A. and his foreſaids, for that effect, perſonally, or at their dwelling-places for the time, in preſence of a notary and witneſſes as effeirs; and in caſe of failzie after requiſition, the ſaid Sir A. A. by theſe preſents, binds and obliges him and his foreſaids, to make payment to the ſaid G. S. and his ſaid ſpouſe, and their foreſaids, of the ſum of 2000 merks money foreſaid, of liquidate expences, by and attour the ſaid principal ſum, and together therewith, but prejudice to them of their real rights of the ſaid lands, teinds, and others foreſaid, both principal and warrandice, ay and while they be completely ſatisfied and paid of the ſums

and liferent, and to the heirs lawfully procreate or to be procreate betwixt them, in fee, which failing, to the said G. S. his other heirs and assignees whatsoever, heritably, all and haill the said four acres of land pertaining to the links of A. reserved and excepted in manner above mentioned, with the pertinents, and that for all the days, space, years and terms of nine years, and nine crops next and immediately following the said G. S. his said spouse, and their foresaids, their entry thereto, which shall be, and begin at the separation of the crop from the ground, crop and year 17—, and further to continue for all years thereafter, ay and while the haill foresaid lands and others above mentioned, be lawfully redeemed, loosed and outquit, by virtue of the reversion after specified, with free ish and entry thereto, and with all and sundry other liberties and privileges belonging to the same; which tack and assedation the said Sir A. A. with consent foresaid, by these presents, binds and obliges him and his foresaids, to warrant and defend to the said G. S. his said spouse, and their foresaids, at all hands, and against all deadly, as law will; for the which tack and assedation, the said G. S. and his said spouse, oblige them, and longest liver of them two, and their foresaids, to make payment to the said Sir A. A. and his foresaids, of seven bolls of bear victual yearly, beginning the first year's payment betwixt Yule and Candlemas 17—, for the next 17— years, and so forth yearly thereafter, while the ish and expiring of the said tack, and to relieve the said Sir A. A. at the hands of the said J. K. present tenant, of a shearer yearly, in time of harvest, mentioned in his said tack, in manner above specified. (8) And on the other part, the said G. S. and M. S. his spouse, and both of them, with one consent and assent, and taking burden on him for her, by these presents, bound and obliged them and their foresaids, at the obtaining of the foresaid infeftments, to make, grant, subscribe and deliver to the said Sir A. A. and D. H. M. his spouse, the longest liver of them two in conjunct fee and liferent, and the heirs-male lawfully procreate or to be procreate betwixt them, which failing, to the said Sir A. A. his other neareſt lawful heirs-male and assignees whatsoever, heritably, a sufficient letter of reversion, for redemption of the said haill lands, teinds, manor-places, houses, *&c.* and others particularly above written, with the pertinents, both principal and warrandice, containing therein the foresaid sum of —— money foresaid, to be paid and delivered whole and together in one sum, in sufficient gold or silver, having passage and course of payment within this kingdom, for the time, and all copper and brass money excepted and secluded therefrom, to the said G. S. his said spouse, and their foresaids, in liferent and fee *respectivè*, within St. Giles's kirk in Edinburgh, at that part thereof where the tomb of umquhile James Earl of Murray is situated, upon Whitsun-even, in *anno* ——, to the which term the foresaid redemption is suspended, or upon any Whitsun-even thereafter, betwixt the sun-rising and down-passing thereof, upon the premonition of forty days of before, to be made by the said Sir A. A. his said spouse, and their foresaids, to the said G. S. his said spouse, and their foresaids, for that effect, in presence of a notary and witnesses as effeirs; and in case of their wilful absence or refusal to the receipt of the said sums, the same to be consigned in the hands of the dean of guild or treasurer of the said burgh of Edinburgh, most responsal for the time, to be forthcoming

coming to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, upon the peril of the conſigners, and that for redemption, looſing and outquitting from the ſaid G. S. his ſaid ſpouſe, and their foreſaids, of the haill foreſaid lands, teinds, and others particularly above mentioned, with the pertinents, both principal and warrandice; and it is hereby declared, that it ſhall no ways be lawful to the ſaid Sir A. A. *&c.* to uſe the foreſaid order of redemption, until ſuch time as all by-runs and reſts of the foreſaid free rent of twelve chalders victual, of the meaſure and quality above mentioned, or prices of the ſame, (9) together with the haill feu and teind-duties, tack-duties, ceſſes and other burdens and impoſitions, if any ſhall happen to be paid by the ſaid G. S. his ſaid ſpouſe, and their foreſaids, be all firſt paid, numbered and down-told, with the ſaid principal ſum of —— and —— money above written of failzie and expences after ſpecified, in caſe the ſame be incurred, be all really paid, numerated and told down, with the ſaid principal, otherways no lawful redemption to be reputed nor holden: And further, it is hereby declared and agreed upon, betwixt both the ſaid parties, that this preſent contract, and condition of reverſion therein contained, ſhall be as valid and ſufficient to the ſaid Sir A. A. *&c.* for uſing of the foreſaid order of redemption, as if a particular letter of reverſion were duly and lawfully made, ſealed, ſubſcribed, delivered and regiſtered apart, with all ſolemnities requiſite, conform to the act of parliament, albeit the ſame be not ſo done; whereanent, and with all that may follow thereupon, both the ſaid parties, for them and their foreſaids, have diſpenſed, and by theſe preſents, diſpenſes for ever, notwithſtanding of whatſoever exception or objection that may be moved or proponed in the contrary; and in caſe the ſaid G. S. his ſaid ſpouſe, and their foreſaids, ſhall happen rather to deſire to have the foreſaid ſums repaid, than to retain the ſecurity thereof above written, then, and in that caſe, the ſaid Sir A. A. by theſe preſents, binds and obliges him and his foreſaids, thankfully to content, pay and deliver to the ſaid G. S. and M. S. his ſpouſe, the longeſt liver of them two, for her liferent uſe allenarly, and after their deceaſes, to the heirs lawfully begotten or to be begotten betwixt them, which failing, to the ſaid G. S. his other heirs and aſſignees whatſoever, all and haill the foreſaid ſum of —— merks, good and uſual money foreſaid, within the town of Edinburgh, at the term of Whitſunday-even, 17— years, to the which term, all requiſition for the ſaid principal ſum is ſuſpended, or at any other term of Whitſunday-even thereafter, the ſaid G. S. his ſaid ſpouſe and their foreſaids, pleaſe to have the ſame, upon the requiſition of forty days of before, to be made by the ſaid G. S. his ſaid ſpouſe, and their foreſaids, or their lawful procurators in their name, to the ſaid Sir A. A. and his foreſaids, for that effect, perſonally, or at their dwelling-places for the time, in preſence of a notary and witneſſes as effeirs; and in caſe of failzie after requiſition, the ſaid Sir A. A. by theſe preſents, binds and obliges him and his foreſaids, to make payment to the ſaid G. S. and his ſaid ſpouſe, and their foreſaids, of the ſum of 2000 merks money foreſaid, of liquidate expences, by and attour the ſaid principal ſum, and together therewith, but prejudice to them of their real rights of the ſaid lands, teinds, and others foreſaid, both principal and warrandice, ay and while they be completely ſatisfied and paid of the ſums

of money, (10) duties, and others *reſpectivè* above written; and alſo, the ſaid G. S. his ſaid ſpouſe and their foreſaids, at the receipt of the ſame, and full and complete payment and ſatisfaction to them thereof, granting the ſaid lands and others foreſaid, both principal and warrandice, to be lawfully redeemed, looſed, and out-quit from the ſaid G. S. his ſaid ſpouſe, and their foreſaids, by the ſaid Sir A. A. and renouncing and diſcharging the ſame, and contract and infeftments following thereupon, in favours of the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, and granting to them ſufficient and valid renunciations, diſcharges, and grants of redemption for that effect, and delivering the ſaid contract, infeftments, and haill rights and evidents of the ſaid wadſet, to the ſaid Sir A. A. and his foreſaids, to be cutted, cancelled, and deſtroyed, or otherways uſed and diſpoſed upon at their pleaſure, in time coming. (*After this, the clauſe of cauſing the lady ratify judicially, clauſe of regiſtration and precept of ſeiſin*, to be holden *à me*, or *de me*, or both, the one but prejudice of the other, in the option of the creditor, *were inſert; and which I omit, being ordinary clauſes, and a pattern thereof being formerly ſet down, except as to the warrandice lands, which muſt be ruled according to the precept* in terminis.)

CONTRACT *of Wadſet, being an improper Wadſet, not clad with the natural Poſſeſſion, but ſet in back-tack to the Heritor, for Payment of the Annualrent of the Money advanced at two Terms, with a Condition, if two Terms run in the third, then the Back-tack ſhall be null, and the Wadſetter may enter to the Poſſeſſion; and ſeveral other things differing from that of the proper Wadſet.*

AT ——, the —— day of —— 17— years, it is appointed, contracted, finally agreed and ended betwixt the parties following: They are to ſay, the right worſhipful Sir A. A. of G. knight, heritable proprietor of the lands and others after ſpecified, both principal and warrandice, with the pertinents, with conſent of D. H. M. his ſpouſe, for all right of liferent, terce, or others whatſoever, which ſhe has or may pretend thereto, and the ſaid D. H. M. for herſelf, her own right and intereſt, with conſent of her ſaid huſband, and both of them with one conſent and aſſent, and he taking burden in and upon him for her, to the effect after mentioned, on the one part, and G. S. advocate, and M. S. his ſpouſe, and them both, with one conſent and aſſent, on the other part, in manner following: That is to ſay, foraſmuch as the ſaid G. S. has inſtantly advanced, paid, and delivered to the ſaid Sir A. A. for outredding of his lawful and neceſſary affairs, and relief and payment of his debts and burdens, *pro tanto*, all and haill the ſum of ——, good and uſual money of this realm, (*here take in the former contract, from the* (2) *figure, until ye come to the* (6) *figure, all which I omit here*, brevitatis cauſa; *for in what omitted, this of the improper agrees with that of the proper wadſet; and then continue the ſtile of the improper wadſet, as follows*) And notwithſtanding of the foreſaid wadſet, and aſſignation to the ſaid tack and tack-duty, and after expiration

expiration of the ſaid tack, to the ſaid mails and duties of the lands and others above wadſet, with the pertinents of all years and terms thereafter, during the not redemption; yet the ſaid G. S. and his ſaid ſpouſe, with one conſent and aſſent, conſidering it may be more convenient for the ſaid Sir A. A. and his foreſaids, to retain the poſſeſſion, and have the ſaid lands, teinds, and others foreſaid, except the ſaid manor-place, office-houſe, and four acres, and paſturage of an horſe and cow, which they the ſaid G. S. and M. S. keep for their perſonal accommodation, and cannot be of preſent uſe for the ſaid Sir A. A. and his foreſaids, being otherways accommodated by the like on the reſidue of their eſtate, ſet back to them in back-tack, for payment of the tack-duty after ſpecified, in manner and in the terms after mentioned; therefore, the ſaid G. S. and his ſaid ſpouſe, with one conſent, have ſet, and in back-tack, and in aſſedation, for the duty under written, let, and by theſe preſents, ſet, and in back-tack and aſſedation, for the duty under written, with and under the expreſs conditions, proviſions and declarations after expreſſed, and no otherways, let to the ſaid Sir A. A. and his foreſaids, all and haill the foreſaid lands, teinds, and others principally above diſponed, with the pertinents; and in caſe of eviction thereof, the ſaid lands and others foreſaid, diſponed in real warrandice of the ſame, in ſo far as may be extended to the ſaid eviction, and in quantity and quality of the ſame, excepting always the foreſaid manor-place, office-houſe, four acres, and privilege of paſturage of an horſe and cow, reſerved to the ſaid G. S. his ſaid ſpouſe, and their foreſaids, for the uſe and end above rehearſed, and of this inſtant crop and year of God 17—, and yearly thereafter in all time coming, during the not redemption after ſpecified; and with power to ſaid Sir A. A. and his foreſaids, to labour and manure the ſaid lands and others foreſaid, excepting and reſerving, as ſaid is, by themſelves and their own ſervants and beſtial, or to ſet the ſame to reſponſal tenants, as they ſhall think expedient, and to intromit with, and uplift the mails and duties thereof, and to ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put, and to do what elſe the ſaid G. S. his ſaid ſpouſe, and their foreſaids, might do therein themſelves, had they retained the poſſeſſion in their own hands, and not ſet the ſame in back-tack, in manner foreſaid: For the which cauſes, the ſaid Sir A. A. by theſe preſents, faithfully binds and obliges him, his heirs, executors and ſucceſſors, thankfully to content, pay and deliver to the ſaid G. S. and his ſaid ſpouſe, the longeſt liver of them two, for her liferent uſe allenarly, and to the heirs lawfully procreate, or to be procreate betwixt them, which failing, to the ſaid G. S. his other heirs and aſſignees whatſoever, all and haill the ſum of —— money foreſaid, in name of back-tack-duty, and that yearly, at two terms in the year, Martinmas and Whitſunday, by equal portions, beginning the firſt term's payment thereof at the term of Martinmas next to come, and the other term's payment of the ſame at the term of Whitſunday thereafter, for this inſtant crop and year 17—, and ſo forth yearly thereafter, at the terms, and by equal portions, as ſaid is, during the continuance of the ſaid back-tack and aſſedation, and that of free rent, and free of all miniſter and ſchoolmaſter's ſtipends, ceſs, and other publick burdens whatſoever, whereof he

hereby binds to relieve them, with the ſum of —— money above written of liquidate expences, in caſe of failzie, and that by and attour the ſaid back-tack-duty, and together therewith; and beſides, and by and attour the ſaid back-tack-duty and penalty, and over and above the ſame, it is hereby expreſly provided and declared, agreed to, and condeſcended upon, betwixt the ſaid parties, that in caſe it ſhall happen the ſaid Sir A. A. and his foreſaids, to fail in the punctual payment of the ſaid back-tack-duty, at leaſt, that they ſuffer and permit two terms thereof to run in the third, and the third unpaid, that then and in that caſe, the ſaid back-tack ſhall from thenceforth become extinct, void and null, and it ſhall be lawful to, and in the power of the ſaid G. S. and his ſaid ſpouſe, and their foreſaids, immediately upon the elapſing of the ſaid third term, to reaſſume and enter to the real, actual, and peaceable poſſeſſion of the ſaid lands, teinds, and others above ſpecified, principally diſponed in wadſet, as ſaid is; and in caſe of eviction thereof, in haill or part, to the real, actual, and peaceable poſſeſſion of the other lands, teinds, and others foreſaid, diſponed in real warrandice of the ſame, at leaſt ſo much of the ſame as will correſpond and effeir, in quantity, quality, and yearly, duty to the ſaid eviction, and of the meaſure above mentioned, and in the ſame way and manner, and as fully and freely in all reſpects, and to all intents and purpoſes, as if the ſaid back-tack and aſſedation had never been ſet and granted, or entered into, but that the real and natural poſſeſſion from the beginning, had remained and continued with the ſaid G. S. his ſaid ſpouſe, and their foreſaids, conform to, and in the firſt terms of this preſent contract, and that *brevi manu*, at their own hands, but any peril of ejection or hazard of intruſion to be incurred or ſuſtained by the ſaid G. S. his ſaid ſpouſe, and their foreſaids therethrough, and without neceſſity of any previous decreet of removing, declarator, or others of the law competent to be had and obtained for that effect, whereanent the ſaid Sir A. A. and his foreſaids, by theſe preſents, diſpenſe for ever. And farther, it is hereby declared, that the ſaid repoſſeſſion ſhall no ways prejudge the ſaid G. S. his ſaid ſpouſe, and their foreſaids, as to the bygone back-tack-duties, and termly penalties that ſhall happen to be reſting and incurred before the ſaid repoſſeſſion; and that it ſhall be lawful to them to charge, purſue, and uſe all diligence real and perſonal thereof, as accords of the law, ay and while they be completely ſatisfied and paid of the ſame. And moreover, it is hereby expreſly provided and declared, that after the ſaid repoſſeſſion, all the obligements above ſpecified, upon the part of the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, for keeping the ſaid lands ſufficiently tenantſtade, and payment of what yearly defective of the ſaid rent of twelve chalders victual, of the quantity and with the meaſure above mentioned, and not meddling and uplifting with the ſuperplus rents of the lands, until the ſaid G. S. his ſaid ſpouſe, and their foreſaids, be firſt paid, or to pay the prices of what defective in manner foreſaid, and all the other obligements, proviſions and conditions above expreſſed, relating thereto, ſhall revert, revive, and take place as to the firſt conception, energy and ſtrength, and as before the ſaid back-tack, and conform to the tenor of the ſame in all points; and upon the which expreſs proviſions, conditions and declarations, and in the preciſe terms aforeſaid, the ſaid back-tack and aſſedation is granted, accepted

cepted and entered into, and no otherways. (*After this, take in the reverſion, and all after the* (8) *figure, until the cloſe, with theſe alterations and additions in their proper places,* viz. *at the* (9) *figure, add,* back-tack-duties, and termly penalties thereof; *and at the figure* (10), *add,* back-tack-duties, and termly penalties.)

Nota, I chuſe rather to inſert this, bearing a real warrandice, than a ſimple wadſet without it; becauſe many have the one, that want the other; and having both, is maſter of both, whether conjunctly or ſeverally, whereas otherways, not.

RENUNCIATION *and Grant of Redemption of the ſaid Wadſet (and which, in effect, may be a Rule to the other Wadſet and heritable Bonds,* mutatis mutandis) *by the ſaid* G. S. *and his Spouſe, to the ſaid Sir* A. A. *of* G. *and his Lady.*

BE it known to all men, by theſe preſent letters, me G. S. of A. advocate, wadſetter of the lands, teinds and others after ſpecified, with the ſpecial advice and conſent of M. S. my ſpouſe, for all right of liferent, and others whatſoever ſhe has, or can pretend thereto, and me the ſaid M. S. for myſelf, my own right and intereſt, with conſent of my ſaid huſband, and both of us, with one conſent and aſſent, and I the ſaid G. S. taking burden in and upon me for her, to the effect after mentioned: Foraſmuchas by contract of wadſet made and paſſed betwixt Sir A. A. of G. knight, heritable proprietor of the lands and others under written, both principal and warrandice, with the pertinents, with conſent of Dame H. M. his ſpouſe, for all right of liferent, terce, or others whatſoever, which ſhe had or might pretend thereto; and the ſaid D. H. M. for herſelf, her own right and intereſt, with conſent of her ſaid huſband, and both of them, with one conſent and aſſent, and he taking burden on him for her, to the effect after expreſſed, on the one part, and us the ſaid G. S. and M. S. with one conſent and aſſent, on the other part, of the date the —— day of ——— 17— years, the ſaid Sir A. A. and his ſaid ſpouſe, with one conſent and aſſent foreſaid, and taking burden as ſaid is, for the ſum of — uſual money of this realm, then advanced, paid and delivered by me the ſaid G. S. to the ſaid Sir A. A. for out-redding of his lawful and neceſſary affairs, and relief and payment of his debts and burdens *pro tanto*, ſold, annalzied and diſponed to us the ſaid G. S. and M. S. and to the longeſt liver of us two, in conjunct fee and liferent, and to the heirs lawfully begotten, or to be begotten betwixt us; which failing, to the other heirs and aſſignees whatſoever of me the ſaid G. S. heritably, with and under the condition of reverſion, and other proviſions and reſervations after ſpecified, in manner after mentioned, all and haill the ſaid Sir A. A. his lands of A. and —— called —— with the manor-place, *&c.* lying within the pariſh of ——— regality of S. conſtabulary of H. and ſheriffdom of E. and all and haill the kirk-lands of —— with the houſes, *&c.* lying in the town and territory of A. lordſhip and barony, regality, conſtabulary and ſheriffdom foreſaid, with the advocation,

vocation, donation, and right of patronage of the parſonage and vicarage of the kirk of ——, teinds parſonage and vicarage thereof, and all profits and commodities of the ſame, reſerving to the ſaid Sir A. A. his ſaid ſpouſe, and their heirs and aſſignees forth of the ſaid diſpoſition, four acres of —— belonging to the links of —— together with all right, title, intereſt, *&c.* the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, had, or could pretend thereto, or to the mails and duties thereof, ſtock and teind, and that in ſo far allenarly as might be extended to twelve chalders victual yearly, whereof —— chalders, —— bolls, —— firlots wheat, and —— chalders of oats, free of all feu and teind-duties, miniſters ſtipends, ceſs, and other burdens and impoſitions whatſoever, and by and attour the manor-place of A. office-houſes thereof, and paſturage of a horſe and a cow to us and our foreſaids, on the ſaid lands of A. and that as for the principal; and all and haill the lands of S. with the tower, fortalice, *&c.* lying within the lordſhip and barony of D. and ſheriffdom of H. and that in real and ſpecial warrandice and ſecurity to us, and our foreſaids, of the ſaid lands, teinds, and others principally above diſponed, with the pertinents, in caſe of eviction, in manner, in the terms, and to the extent and latitude therein expreſſed, and during the not-redemption, by virtue of the reverſion therein contained; and the ſaid Sir A. A. with conſent of his ſaid ſpouſe, and taking burden on him for her, as ſaid is, bound and obliged him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe us and our foreſaids, in liferent and fee, *reſpectivè* and heritably, and under reverſion, in manner foreſaid, in all and ſundry the foreſaid lands, teinds, patronage, and others *reſpectivè*, particularly above diſponed, with the pertinents, principal and warrandice, lying as above expreſſed, and in ſo far as might be extended to the foreſaid free rent of twelve chalders victual, of the quality above rehearſed, by and attour the manor-place of A. and paſturage of a horſe and a cow on the ſaid lands of A. and that by two ſeveral infeftments and manner of holdings, to be holden with warrandice, and under reverſion, in manner ſpecified in the ſaid contract, and to grant all rights and ſecurities requiſite and neceſſary thereanent, the two part of the charges of the ſaid infeftments to be on their part, and the other third of the ſame to be on our part; and which contract contains procuratory of reſignation, abſolute warrandice, clauſe of purging incumbrances, aſſignations to the then ſtanding tack, and duty therein contained, during the ſpace thereof to run, and to the *ipſa corpora* of the duties themſelves, after expiration thereof, in ſo far as may be extended, in manner foreſaid, and a power to quarrel the tack upon the grounds therein mentioned, and a back-tack of the lands to the ſaid Sir A. A. for the yearly duty, and in the terms therein ſpecified, with a tack of the ſaid four acres in our favours, during the not-redemption, for payment of the yearly duty therein expreſſed, together with a letter of reverſion, clauſe of requiſition, precept of ſeiſin, and divers other obligements, articles and clauſes conceived in favours of both parties; and conform whereunto, and charter following thereupon, granted by the ſuperior, containing precept of ſeiſin, we the ſaid G. S. and M. S. were upon the —— day of —— —— years, lawfully infeft in the ſaid lands, and others foreſaid,

both

both principal and warrandice, and that in liferent and fee *reſpectivè*, and our ſeiſin duly regiſtered, conform to the act of parliament, as the ſaid contract of wadſet, charter and ſeiſin following thereupon, in themſelves more fully proport. And now ſeeing the ſaid Sir A. A. has (conform to, and in the terms of the ſaid reverſion contained in the ſaid contract) made real payment and ſatisfaction to me the ſaid G. S. of the ſaid ſum of —— money foreſaid (at firſt borrowed by him upon the ſaid wadſet) together with the two parts of the expences of the ſaid infeftments, and bygone back tack-duties reſting by him to us, and any thing expended by us at firſt, upon the reparation of the ſaid manor-place of A. or any ceſs were paid out for him, and whereof, and other publick burdens he was obliged to relieve me and my ſaid ſpouſe, in manner foreſaid, but with deduction and allowance from me to him of the tack-duty of the ſaid four acres, as to all bygone years; and of the which haill ſums, now and formerly advanced and paid, I the ſaid G. S. with conſent foreſaid of my ſaid ſpouſe, hold me well content, ſatisfied and paid, and for me, my heirs and executors, renounce all exceptions and objections in the contrary, for now and ever: Therefore, wit ye us the ſaid G. S. and M. S. both with one conſent and aſſent foreſaid, and taking burden, as ſaid is, to have acknowledged and confeſſed, likeas we, by theſe preſents, acknowledge and confeſs the foreſaid lands, teinds, patronage, manor-place, houſes, biggings, yards, orchards, privileges, and others above wadſet and diſponed, with the pertinents, both principal and warrandice, and all lying in manner foreſaid, together with the ſaid right of wadſet granted to us thereupon, and infeftments following on the ſame in our favours, to be lawfully redeemed, looſed and out-quit by the ſaid Sir A. A. and his ſaid ſpouſe, and their foreſaids, from us and our foreſaids, for ever in all time coming, and that by the ſaid Sir A. A. his good, thankful and real payment making to me the ſaid G. S. of the foreſaid ſums due thereupon, and contained in the ſaid reverſion, in manner above ſpecified, after deduction and allowance given by me to him of the tack-duty of the ſaid four acres, in manner above expreſſed; and therefore, we have freely and *ſimpliciter* over-given, quit-claimed, and for ever diſcharged and renounced, likeas we, both with one conſent and aſſent foreſaid, and taking burden in manner above ſpecified, for us and our foreſaids, by theſe preſents, freely and *ſimpliciter* over-give, quit-claim, and for ever diſcharge and renounce, to and in favours of the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, in all time coming, the foreſaid contract of wadſet, charter and ſeiſin following thereupon, lands, teinds, patronages, manor-place, houſes, biggings, yards, orchards, graſings, acres, privileges, and others therein contained, and all right, title, intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which we, or either of us, and our foreſaids, had, have, or any ways may claim or pretend thereto, with all that has followed, or may follow on the ſame, by whatſoever manner of way; and hereby declare the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, to be in their own vice, title and place of the premiſſes, and the ſaid rights to be extinct, void and null, and of no force, ſtrength or effect in all time coming, ficklike, and as fully,

fully, freely and abſolutely in all reſpects, and to all intents and purpoſes, as if the ſaid wadſet had never been granted or entered into, or any charter or infeftment thereupon paſſed and expede, or poſſeſſion, by ſubtack or otherways, by virtue thereof, had and obtained; and which renunciation and diſcharge, in ſo far as may be extended to the ſuppreſſion and extinction of the ſaid wadſet right and infeftments allenarly, I the ſaid G. S. with conſent foreſaid, and taking burden, as ſaid is, by theſe preſents, bind and oblige me, my heirs, executors and ſucceſſors, to warrant, acquit and defend to the ſaid Sir A. A. his ſaid ſpouſe, and their foreſaids, in all, and by all things, as is above written, in all time coming, at all hands, and againſt all deadly, as law will; and I the ſaid M. S. with conſent of my ſaid huſband, and he taking burden on him for me, in manner foreſaid, by theſe preſents, bind and oblige me, my heirs, executors and ſucceſſors, to warrant, acquit and defend the ſame from my own proper fact and deed, done, or to be done in prejudice thereof allenarly. And, *laſtly*, I the ſaid G. S. bind and oblige me and my foreſaids, to move, and cauſe my ſaid ſpouſe compear judicially before a judge competent, and there, outwith my preſence, ratify this preſent diſcharge and renunciation, in the haill heads, articles and clauſes thereof, and and make faith ſhe is not forced or compelled thereto, but that the ſame is done by her voluntarily and ſpontaneouſly, and to her ſeen utility and profit, and that ſhe ſhall never come in the contrary thereof, directly or indirectly in judgment, or outwith the ſame in time coming; likeas we the ſaid G. S. and M. S. have, with one conſent and aſſent, inſtantly delivered up to the ſaid Sir A. A. and his ſaid ſpouſe, the foreſaid principal contract of wadſet unregiſtered, with the charter and ſeiſin following thereupon, to be (with the other ſubſcribed double of the ſaid contract) cutted, cancelled and deſtroyed by them at pleaſure, in time coming; conſenting theſe preſents be inſert and regiſtered in the books of council and ſeſſion, appointed for regiſtration of ſeiſins, reverſions, diſcharges and renunciations of wadſets, and the like, or others competent, therein to remain for conſervation, and if need beis allenarly, that letters, in form as effeirs, may paſs hereupon; and to that effect, conſtitutes ——— ——— our procurators, *&c.* In witneſs whereof, we have ſubſcribed theſe preſents (written by ———) *(here inſert the writer's name, ſurname and deſignation)* with our hands, at ——— the —— day of ——— ——— years, before theſe witneſſes,

Nota. This diſcharge and renunciation muſt be regiſtered within 60 days of the date of its being ſubſcribed, either in the particular regiſter of ſeiſins where the lands ly, or in the general regiſter of ſeiſins at Edinburgh.

CONTRACT

CONTRACT *of Marriage betwixt* W. B. *eldeſt lawful Son to* A. B. *of* —— *and* E. H. *eldeſt lawful Daughter to* A. H. *of* —— *with Conſent of both Fathers; and a good Style, with ſeveral fine Clauſes.*

AT —— the —— day of —— —— years: It is appointed, contracted, finally and matrimonially agreed and ended betwixt the parties following; they are to ſay, W. B. eldeſt lawful ſon and apparent heir to A. B. of —— with the ſpecial advice and conſent of his ſaid father, and the ſaid A. B. for himſelf, his own right and intereſt, with conſent of his ſaid ſon, and both of them, with one conſent and aſſent, and the ſaid A. B. taking burden in and upon him for his ſaid ſon, on the one part, and E. H. eldeſt lawful daughter to A. H. of —— with the ſpecial advice and conſent of her ſaid father, and the ſaid A. H. for himſelf, with her conſent, and both of them with one conſent and aſſent, and he taking burden in and upon him for her, to the effect after ſpecified, on the other part, in manner following; that is to ſay, the ſaid W. B. and E. H. with conſent foreſaid, have accepted, and by theſe preſents, accept each of them others for their lawful future ſpouſes, and faithfully promiſe, and bind and oblige them to perform, ſolemnize and accompliſh the holy and honourable bond of marriage with one another, in face of holy kirk, as God's word doth approve and allow, and that betwixt the date hereof and the —— day of —— or ſooner, as the ſaid parties (at the pleaſure of God) ſhall think fit and expedient: In contemplation of the which marriage, the ſaid A. B. of —— by theſe preſents, faithfully binds and obliges him, his heirs and ſucceſſors, with and under the expreſs reſervations, proviſions, conditions, declarations and burdens after ſpecified, duly and ſufficiently to infeft and ſeiſe the ſaid W. B. his eldeſt lawful ſon, and the ſaid E. H. his effidat ſpouſe, the longeſt liver of them two, in conjunct fee and liferent, and the heirs-male lawfully to be procreate betwixt them; which failing, the ſaid W. B. his other heirs-male whatſoever; which all failing, his heirs whatſoever (the eldeſt daughter or heir-female having always the preference, and ſucceeding without diviſion) and their aſſignees, heritably and irredeemably, in all and haill *(here inſert the lands and others appointed and agreed to be liferented by the gentlewoman, which are ſuppoſed to be the lands holden of other ſuperiors than the King, and no part of the barony, and where they ly, and then ſay)* and ſicklike, duly and ſufficiently to infeft and ſeiſe the ſaid W. B. and the heirs-male lawfully to be procreate of his body in the ſaid marriage; which failing, his other heirs-male and of tailzie above mentioned, and their aſſignees, heritably and irredeemably, with and under the ſame reſervations, proviſion, and burden, in all and haill the lands and barony of —— comprehending the towns, lands, mills, mill lands, patronages, teinds, and others after mentioned, *viz. (here inſert the lands and others contained in the father's charters of the barony, and where they ly, and then ſay)* and all by double infeftments and manner of holdings, the one thereof to be holden of the ſaid A. B. and his foreſaids, in free blench, for payment of a penny Scots money, at the term of Whitſunday yearly,

yearly, in name of blench-farm, if it be aſked allenarly, and relieving the ſaid A. B. and his foreſaids, of the juſt and equal half of the feu and blench-duties, or other duties due and payable to the ſuperiors forth thereof, yearly in time coming, and the other of the ſaid infeftments to be holden from the ſaid A. B. and his foreſaids, of his reſpective immediate lawful ſuperiors, ſicklike and as freely in all reſpects as he holds, or may hold the ſame himſelf, and that by reſignation or confirmation, as beſt ſhall pleaſe the ſaid W. B. and his ſaid future ſpouſe, and their foreſaids, the acceptation of the one of the ſaid infeftments to be no ways prejudicial to the other, and for that effect, to make, grant, ſubſcribe and deliver to them, in liferent and fee *reſpectivè*, all rights and ſecurities requiſite and neceſſary thereanent, with warrandice always in manner under written, and upon the ſaid A. B. and his foreſaids their own proper charges, moyen and expences, but all with and under the expreſs reſervations, proviſions, conditions, declarations, reſtrictions, limitations, and burden of the debts and younger childrens portions after ſpecified, in manner, and in the terms after mentioned, and wherein the ſaid E. H. her liferent above written, is no ways to be intereſted and concerned, in manner after expreſſed; and for the better obtaining of the foreſaid reſpective infeftments by reſignation, as ſaid is, and but prejudice of the other infeftment above rehearſed, the ſaid A. B. by theſe preſents, makes, conſtitutes and ordains ——— and each one of them, conjunctly and ſeverally, his very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand-bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, his very full, free, plain power, expreſs bidding, mandate and charge, for him, in his name, and upon his behalf, to compear before his immediate lawful ſuperiors of the ſaid lands and others foreſaid, appointed to be liferented by the ſaid E. H. and which is no part of the ſaid barony, as ſaid is, and alſo before our ſovereign Lord the King's moſt excellent Majeſty, and his royal ſucceſſors, lawful ſuperiors of the ſaid lands and barony of ——— comprehending the lands, mills, mill-lands, patronages, and others above ſpecified, with the pertinents, or their commiſſioners in their names, having power to receive reſignations, and thereupon to grant new infeftments, and that any day and place lawful and convenient, and there, with all due humility and condign reverence as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, to reſign, ſurrender, over-give and deliver, likeas the ſaid A. B. by theſe preſents, reſigns, ſurrenders, over-gives and delivers all and haill the foreſaid lands of ——— *(here inſert all the lands and others appointed to be liferented by the young lady, and where they ly, and then ſay)* in the hands of the ſaid A. B. his immediate lawful ſuperiors thereof, in favours and for new infeftment of the ſame, to be made and granted to the ſaid W. B. and the ſaid E. H. his eſſidat ſpouſe, and to the longeſt liver of them two, in conjunct fee and liferent, and to the heirs-male lawfully to be procreate betwixt them; which failing, to the ſaid W. B. his other heirs-male whatſoever; which all failing, to his heirs whatſoever, the eldeſt daughter or heir-female having always the preference, and ſucceeding without diviſion, and their aſſignees, heritably and irredeemably; and ſicklike, to reſign, ſurrender, over-

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give and deliver, likeas the ſaid A. B. by theſe preſents, reſigns, ſurrenders, over-gives and delivers all and haill the foreſaid lands and barony of ——— comprehending the lands, mills, mill-lands, patronages, teinds, and others above and after ſpecified, *viz. (here inſert what belongs to the barony, as in the obligement to infeft, all lying as ſaid is, and then ſay)* in the hands of our ſaid ſovereign Lord, and his royal ſucceſſors, ſuperiors of the ſame above mentioned, or their commiſſioners above expreſſed, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid W. B. and to the heirs-male lawfully to be procreate of his body in the ſaid marriage; which failing, to his other heirs-male above written; which all failing, to his heirs whatſoever (the eldeſt daughter, or heir-female, having always the preference, and ſucceeding without diviſion, in manner foreſaid) and their aſſignees, heritably and irredeemably, to be holden all the ſaid lands, barony, and others above reſigned, as well holden of his Majeſty as other ſuperiors, of the ſaid reſpective ſuperiors, in ſuch due and competent form as accords, but all the ſaid reſignations and infeftments, with and under the expreſs reſervations, proviſions, conditions, declarations, reſtrictions and limitations under written, and burden of the debts and younger childrens portions after ſpecified, in manner and in the terms after mentioned, and wherein the ſaid E. H. her liferent right aforeſaid, is no ways to be intereſted and concerned, or in the leaſt burdened and affected, in manner after expreſſed, *viz.* Reſerving always to the ſaid A. B. his liferent right of the manor-place, office-houſes, yards and orchards of the ſaid barony, now preſently poſſeſſed by himſelf; as alſo, of theſe parts and portions of the ſaid barony particularly under written, *viz. (here inſert the lands and others reſerved to the father in liferent, and then ſay)* and that during all the days of his lifetime; and ſicklike, reſerving to —— his ſpouſe, her liferent right of ſuch of the ſaid lands, barony, and others above reſigned, with the pertinents, holden of his Majeſty, as ſaid is, as are provided to her in liferent by contract of marriage, and infeftment following thereupon, and additional proviſion granted by her ſaid huſband to her thereafter, and both during all the days of her lifetime, in caſe (at the pleaſure of God) ſhe happen to ſurvive him. And in like manner, it is hereby expreſly provided and declared, and be it ſo provided and declared, by the reſignation and infeftments to follow hereupon, that the ſaid W. B. and the heirs-male of his body, which failing, his other heirs-male and of tailzie above ſpecified, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them to ſatisfy and pay to the ſaid A. B. his lawful creditors, the debts reſting by the ſaid A. B. to them by wadſet, right of annualrent, perſonal bonds, or otherways, conform to a liſt thereof ſubſcribed by the ſaid A. B. and his ſaid ſon thereanent, of the date of theſe preſents, and likeways to ſatisfy and pay the ſaid A. B. his younger childrens portions and proviſions, conform to, and in the terms of the bonds of proviſion granted by him to them alſo thereanent, and with aliment, annualrent and penalties, in manner therein expreſſed; and to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid A. B. and his executors, and other repreſentatives, of all requiſition and legal diligence and execution whatſoever, that may be uſed againſt

him or them, at the inſtance of his ſaid creditors and children, or either of them, or of their heirs, executors or aſſignees, for the ſaid debts, portions and proviſions, and of all coſt, ſkaith, damage, intereſt, charges and expences that may be ſuſtained by them therethrough any manner of way, in time coming, and to report to the ſaid A. B. and his foreſaids, ſufficient acquittances, diſcharges and grants of redemption of the ſame, whenever deſired by the ſaid A. B. or his foreſaids thereto; and for all which, and doing and performing thereof, the ſaid W. B. is particularly obliged to the ſaid A. B. and his foreſaids, by a particular bond granted thereanent, alſo of the date of theſe preſents. And further, it is hereby expreſly provided and declared, by the ſaid reſignation and infeftments, that if at any time hereafter the ſucceſſion of the ſaid lands and eſtate, failing of heirs-male to ſucceed therein, ſhall deſcend to the heirs-female, that then, and in that caſe, the eldeſt heir-female ſhall ſucceed and have the preference without diviſion, marrying a gentleman of the name of B. or one who ſhall aſſume the ſame, and they, and the heirs-male and female deſcending of their bodies, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them, in all time thereafter, to aſſume, uſe and bear the ſurname of B. arms, cognizance and ſtyle of ——— and wherein if they fail and contravene, then, and in that caſe, *ipſo facto*, they ſhall amit and tine their right of the ſaid lands and eſtate, and the ſame ſhall devolve upon, and appertain and belong to the next in blood, or order of ſucceſſion, who is hereby ordained and appointed in the caſe foreſaid, and immediately upon the ſaid contravention, to ſucceed thereto, even as if the contraveners were naturally dead; and the ſaid contraveners are hereby holden and obliged, and by the acceptation hereof, bind and oblige them, to denude and diveſt themſelves of the right of the ſaid eſtate, and all pretence they have thereto, in favours of the ſaid perſon that is next in blood, and in order of ſucceſſion, in manner foreſaid; and ſhould they refuſe or delay ſo to do, it ſhall be leiſome and lawful to, and in the power of the ſaid perſon next in blood and order of ſucceſſion, to oblige the contraveners to denude *ut ſupra*, and that by way of declarator, adjudication, or otherways, as may beſt conſiſt with the laws and cuſtom of the kingdom in that caſe provided, the perſon ſo ſucceeding upon the ſaid contravention marrying *ut ſupra*, and her huſband, and deſcendents of their bodies, aſſuming, uſing, and bearing the ſurname of B. arms, cogniſance and ſtyle of ——— in manner, and in the terms above expreſſed. And moreover, it is hereby expreſly provided and declared, and be it ſo expreſly provided and declared, by the reſignation and infeftments to follow hereupon, that it ſhall not be lawful to, or in the power of the ſaid W. B. and heirs-male of his body, or yet to the other heirs-male and of tailzie above ſpecified, to alter, innovate or infringe the foreſaid tailzie, or order of ſucceſſion therein appointed, or the nature, quality, and preciſe terms thereof, in prejudice of the ſucceſſors; and the deeds ſo done, ſhall not only be void and null, but alſo the perſon contravener ſhall, *ipſo facto*, amit and tyne all right he or ſhe has, or can pretend (by virtue of this preſent right of tailzie, or otherways) to the ſaid lands and eſtate, and the next in the order of ſucceſſion who might have ſucceeded therein *jure ſanguinis*, if the contravener

travener naturally dead, ſhall have right thereto, and in full power to oblige the contravener to denude thereof, the way and manner formerly appointed and preſcribed; and with and under the which reſervations, proviſions, conditions and limitations above ſpecified, and burden of the ſaid debts, and younger childrens portions and proviſions, and obligements relating thereto, theſe preſents are granted and accepted, and reſignation and infeftments appointed to follow thereupon, and no otherways. And, *laſtly*, it is hereby declared, that albeit this preſent right be granted, with the burden of the ſaid A. B. his debts and younger children their portions and proviſions aforeſaid, yet the ſame ſhall no ways militate againſt, or in the leaſt burden or affect the ſaid E. H. her liferent aforeſaid, in caſe ſhe ſurvive her ſaid future huſband, but, on the contrary, the ſame ſhall remain full and entire to her, after her ſaid huſband's deceaſe, during all the days of her lifetime, conform to her ſaid liferent, proviſion, and infeftment to follow thereupon in all points, acts, inſtruments and documents *(here take in the ſtyle of the procuratory of reſignation from the father to the ſon, figure* (6) *until ye come to the figure* (7), *with this difference*, viz. *whereas, the former being a deed flowing from the father, and by way of procuratory of reſignation, he ſpeaks of himſelf in the firſt perſon; in this, being by way of contract, ye muſt ſpeak of him in the third perſon all alongſt, and then ſay)* reſerving always to the ſaid E. H. her liferent right of the lands and others above ſpecified, provided to her, in caſe ſhe ſurvive her ſaid huſband, and that after his deceaſe, during all the days of her lifetime, conform to her ſaid liferent proviſion, and infeftment to follow thereupon in all points; and in and to the mails, farms, kains, cuſtoms, caſualties, profits, duties and parſonage-teinds of the which lands, and others foreſaid, ſo provided to the ſaid E. H. in liferent, after her ſaid huſband's deceaſe, in caſe ſhe ſurvive him, in manner foreſaid, and during her lifetime, and all action competent thereupon, the ſaid A. B. with conſent of his ſaid ſon, hereby makes and conſtitutes her his aſſignee, with full power to the ſaid W. B. and his foreſaids, which failing, as ſaid is, to intromit with, uplift, *(here take in from the former figure* (7) *in the father's procuratory, until ye come to the figure* (8) *and then ſay)* And reſerving alſo to the ſaid E. H. her liferent right above ſpecified, after her ſaid huſband's deceaſe, during her lifetime, in manner above expreſſed; and with full and ample power to her, in caſe ſhe ſurvive her ſaid huſband, immediately upon his deceaſe, to poſſeſs, labour and manure the ſaid lands, and others foreſaid, liferented by her, as ſaid is, and to intromit with, uplift, aſk, crave, and receive the mails, duties, teinds and caſualties thereof, and to exact the ſervices of the ſame, after her ſaid huſband's deceaſe, and during her ſaid lifetime, in manner above rehearſed, and to ſet and raiſe tenants, uſe warning, proſecute removings, decreets in the premiſſes to obtain and receive, and the ſame to due execution cauſe be put, and upon payment to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe any liferentrix by the laws of this kingdom has done, does, or may do in the like caſes; and becauſe the ſaid A. B. as the parent, keeps the writs and evidents of the ſaid lands and eſtate in his own hands, during his lifetime, he, by theſe preſents, binds and obliges him, and his foreſaids,

foresaids, to make the same forthcoming to the said W. B. and his foresaids, whenever they shall have necessarily to do therewith, and he required thereto; and if, in the mean time, the said W. B. and his foresaids, require judicial transumpts thereof, to exhibit the same before any judge competent for that effect, the said W. B. and his foresaids, being at the charge and expence thereof; and with power also to the said W. B. and his foresaids, after the said A. B. his decease, to meddle and intromit with the said A. B. his charter-chest, and writs and evidents of the said estate therein, as their own proper charter-chest, writs and evidents, and to be kept, used and disposed upon by him and his foresaids as such, at their pleasure thereafter in time coming. And because, upon the matter, the said A. B. liferents the half of the estate, and that now the said W. B. his eldest son, enjoys and possesses the other half thereof; therefore, it is hereby agreed and condescended betwixt them, that for this next crop and year, and thereafter in all time coming, during the said A. B. his lifetime, they shall pay and relieve one another of the just and equal half of all feu duties, and other duties due and payable forth of the said estate to the King, or other superiors, ministers and schoolmasters stipends, reparation of kirks and kirk-yard dykes, communion-elements, teind, tack-duties, cesses, maintenants, outricks and levies of horse and foot, taxations, and other publick burdens due and payable, or that shall be due and payable forth of the said lands and estate, stock and teind, and that yearly, termly, quarterly, or monthly, as the same shall fall due; and the said A. B. and W. B. by these presents, bind and oblige them to pay and relieve one another accordingly of the same, and by a bipartite division, in manner above expressed. And the said W. B. with consent foresaid, binds and obliges him and his foresaids, that the said lands, and others above specified, in stock and teind provided to his said future spouse in liferent, as said is, do amount and extend to, and pay yearly of free rent, attour feu-duties, blench-duties, or other duties due to the superiors, and ministers and schoolmasters stipends, or teind tack-duties, the number and quantity of ——— chalders victual, of the quality after specified, *viz.* ——— and with the mete and measure of ——, and that the same shall pay no less, of the quality, and with the mete and measure foresaid, at her entry thereto, in case, at the pleasure of God, she survive him, in manner foresaid, and that the tenants shall acknowledge the same in court upon oath; and if any part of the said free rent shall be found defective, the said W. B. binds and obliges him and his foresaids, to make up the same to her, and to secure her sufficiently in the equivalent of what so defective, out of the next adjacent lands belonging to himself, payable to her yearly, during her lifetime, with customs and services correspondent thereto, and that at the sight, and by the advice of her friends after named, and to warrant her said liferent right, and infeftments to follow thereupon, from all incumbrances and grounds of eviction whatsoever, at all hands, and against all deadly. But it is hereby agreed and condescended, that albeit her said liferent and jointure be made a free rent, as to the particular burdens above mentioned; yet, and notwithstanding thereof, she is to be liable for, and hereby, with consent foresaid, obliges her to satisfy and pay a proportional part of

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all ceſſes, taxations, levies of horſe and foot, and other publick burdens and impoſitions impoſed, or to be impoſed upon the whole eſtate, effeiring and correſponding to what thereof liferented by her, in manner foreſaid. And for the better clearing of her proportion thereof, and that no debate or controverſy may ariſe thereanent, or ſhe unneceſſarily a ſufferer, by quartering, poinding, or otherways, the ſaid W. B. hereby obliges his heirs and ſucceſſors, immediately upon his own deceaſe, to divide with her in point of valuation, as to their reſpective intereſts and concerns in the ſaid eſtate, and that in writ under both their hands, to the effect the ſame may be booked and recorded in the valuation books of the ſhire, or other juriſdiction where the ſaid lands and eſtate ly, and that at the ſight, and by the advice foreſaid. And becauſe the ſaid E. H. her liferent aforeſaid, is made up of teind as well as ſtock, ſo that ſhould the tacks or other rights of the ſaid teinds expire during her lifetime, ſhe will be thereby prejudged, and in ſo much ſhort of her liferent; therefore, and as a remedy againſt that inconvenience, the ſaid W. B. with conſent foreſaid, by theſe preſents, binds and obliges him and his foreſaids, immediately upon the expiring of the former tacks, or other rights of the teinds of the ſaid liferent lands, to obtain and procure a liferent-tack thereof in her perſon, at leaſt in their own perſon, and to tranſmit and convey the right thereof in her perſon, during her ſaid lifetime, and whatever may be the tack-duty, or what elſe thereby to be impoſed by the titular, or others having right upon the ſaid teinds, he obliges him and his foreſaids, to relieve her thereof, and diſburden the ſaid teinds of the ſame, during her ſaid lifetime, ſo as her ſaid liferent lands, and teinds thereof may continue ſtill a free rent to her, except as to ceſſes, taxations, levies, and other publick burdens, in manner after rehearſed, and whatever lands, heritages, tenements, annualrents, rooms, poſſeſſions, or heritable bonds, ſhall happen to be conqueſted and acquired by the ſaid W. B. during the ſaid marriage, he binds and obliges him and his foreſaids, to provide the ſame as follows, *viz.* the one juſt and equal half thereof to himſelf, and his effidat ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and to the heirs-male lawfully to be procreate betwixt them, which failing, to the ſaid A. B. and his other heirs-male and of tailzie above ſpecified, and their aſſignees, and the other juſt and equal half of the ſame to the ſaid W. B. and to the heirs-male of the ſaid marriage, which failing, as ſaid is, and to take the rights, ſecurities, and infeftments thereof from time to time, conceived accordingly. And farther, the ſaid W. B. hereby provides the ſaid E. H. his future ſpouſe, in caſe ſhe ſurvive him, and that there be heirs-male of the marriage to ſucceed, to the juſt and equal third part, and if there be no heirs-male thereof to ſucceed, to the juſt and equal half of the haill inſight and pleniſhing of the houſe, utenſils and domicils, heirſhip excepted; and for her further ſecurity thereanent, he hereby diſpones the ſaid third, or half of the ſame, in the reſpective caſes, and with the exception foreſaid, in her favours, and with full and ample power to her, immediately after his deceaſe, to retain, intromit with, uſe and diſpoſe upon the ſaid third, or half, as the ſame falls out, at pleaſure, and that free of all debt, or other burden or danger that may affect the ſame any manner of way; and whereof he obliges him and his foreſaids, to warrant and relieve

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her at all hands, having, claiming, or pretending to have intereſt thereto, by whatſoever manner of way, in time coming; and which lands, teinds, and others above ſpecified, liferented by the ſaid E. H. together with the liferent of the ſaid half conqueſt, and half or third of the ſaid inſight, pleniſhing, utenſils, and domicils, with the exception of the ſaid heirſhip, ſhe, with conſent foreſaid, by theſe preſents, accepts in full contentation, and plenary ſatisfaction of all other liferent, conqueſt, terce, third executry, or what elſe ſhe may aſk, ſeek or crave, by or through the ſaid W. B. her future huſband his deceaſe, or that her executors, or neareſt of kin, may anyways aſk, ſeek or crave of her ſaid huſband or his foreſaids, or may fall to her ſaid executors, or neareſt of kin, by or through her deceaſe, when either of the ſaid caſes ſhall happen to occur, reſerving his own good-will allenarly. And in reſpect, by the reſignation and infeftments aforeſaid, in favours of the ſaid W. B. and heirs-male of the marriage, which failing, of his other heirs male whatſoever, the daughters, or heirs of line, if any be procreate therein, are excluded and debarred from the right of ſucceſſion in the ſaid lands and eſtate, yea, even of the conqueſt itſelf; and it being juſt and reaſonable, the daughters be otherways provided, and to a certainty, according to their degree and quality; therefore, the ſaid W. B. with conſent foreſaid, and failing of heirs-male of the ſaid marriage, by theſe preſents, provides the daughters to be procreate therein, to the ſeveral portions and proviſions following, *viz.* If there be but one daughter, to the ſum of —— Scots money; and if there be two, the eldeſt to the ſum of —— money foreſaid, and the ſecond to the ſum of —— money above written; and if there be three daughters, the eldeſt to the ſum of ——, the ſecond to the ſum of ——, and the third to the ſum of ——; and if there be four or more daughters procreate in the ſaid marriage, the whole daughters to the ſum of —— money above ſpecified, to be divided amongſt them, as two of the neareſt friends on the father's ſide, and the like number of friends on the mother's ſide, with advice of the father, if on life for the time, ſhall think expedient, only the eldeſt daughter in the diviſion, is to have a double portion; and which reſpective portions and proviſions above mentioned, the ſaid W. B. with conſent foreſaid, by theſe preſents, faithfully binds and obliges him, his heirs-male and ſucceſſors, executors and intromitters with his goods and gear whatſoever, thankfully to content, pay and deliver to the ſaid daughters to be procreate in the ſaid marriage, and according to the diviſion aforeſaid, and to their heirs and aſſignees, ſecluding executors, at their —— years of age, or marriage, which of them ſhall firſt fall out, with an hundred merks, for each thouſand merks of the ſaid portions, of liquidate expences in caſe of failzie, attour the ſaid portions, and together therewith, and annualrent after the ſaid terms or times of payment, conform to the act of parliament, during the not payment; and in the mean time, to maintain them in bed, board, abulziements, and all other neceſſaries, and to educate them ſufficiently, and all according to their degree and quality, and until the ſaid daughters their ſaid age or marriage *reſpective*, and ſufficiently to ſecure the ſaid daughters for payment of their ſaid portions, penalty and annualrent, and for the ſaid aliment and education, at the ſight, and by the advice of the ſaid E. H. her friends afternamed, whereby they may not in the leaſt be

ſruſtrated thereof, or prejudged thereanent any manner of way: And which daughters, and their portions and proviſions above mentioned, are to be altogether free of all debts, dangers, burdens and inconveniencies whatſoever, that may any ways affect or burden them, or evict the ſame from the ſaid daughters, as apparent heirs of line, or otherways; and whereof, and of all hazard, trouble, charges and expences, that they or their ſaid portions and proviſions may any ways ſuſtain, incur, or be liable or obnoxious to, the ſaid W. B. alſo binds and obliges him and his foreſaids, to warrant, free, relieve, harmleſs and ſkaithleſs keep, and every way liberate and diſburden the ſaid daughters, and their foreſaids, and their ſaid portions and proviſions, for now and ever; likeas the ſaid daughters, and the ſaid A. H. as party contracter aforeſaid, hereby accept of their ſaid portions and proviſions, in the terms above expreſſed, in full contentation and ſatisfaction of all other executry, legacy, portion-natural, bairns part of gear, and what elſe they may aſk, ſeek or crave, by or through their ſaid father his deceaſe, when the ſame, at the pleaſure of God ſhall happen, reſerving his own good-will allenarly, and but prejudice to the ſaid daughters, of the benefit of their birth-right and ſucceſſion to the ſaid lands and eſtate, in caſe the ſame fall out by virtue of the ſaid tailzie, and in the order and terms thereof, as being no ways hereby paſſed from, but reſerved to them, conform to the tenor of the ſame in all points: For the which cauſes, the ſaid A. H. by theſe preſents, binds and obliges him, his heirs, executors and ſucceſſors, and intromitters with his goods and gear whatſoever, to content, pay and deliver to the ſaid W. B. his heirs and aſſignees, ſecluding executors, all and haill the ſum of —— uſual money of this realm, in name of dote and tocher-good with the ſaid E. H. his eldeſt lawful daughter, and that at the term of Whitſunday next to come, but longer delay, with the ſum of —— money foreſaid, of liquidate expences, in caſe of failzie, and that by and attour the ſaid tocher, and together therewith; together alſo with the due and ordinary annualrent and profit of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not payment thereof after the ſaid term; but prejudice always to the ſaid W. B. and his foreſaids, to ſuit execution hereupon, for payment of the ſaid ſums at the ſaid term appointed for that effect, or at any other term or time thereafter they pleaſe, notwithſtanding of the foreſaid clauſe made anent payment of annualrents; and which tocher-good and portion above ſpecified, the ſaid E. H. with conſent of her ſaid future huſband, and he for himſelf, with her conſent, and both of them with one conſent and aſſent, and taking burden in and upon him for her, hereby accept, in full contentation and ſatisfaction of all executry, legacy, portion-natural, bairns part of gear, former proviſions, and what elſe ſhe may aſk, ſeek, or crave, or fall to her by or through her ſaid father's deceaſe, by whatſoever manner of way in time coming, reſerving always his own good-will allenarly. And laſtly, It is hereby provided, and expreſly agreed to, and condeſcended upon, betwixt the ſaid parties, that execution ſhall paſs upon this preſent contract, at the inſtance of the ſaid A. H. he being on life, and failing of him by deceaſe, at the inſtance of ——, or any one of them on life for the time, and failing of all of them,

them, by deceaſe of their, or any of their heirs, or eldeſt ſons, againſt the ſaid A. B. and W. B his ſon, and their foreſaids, for implement of their part of this preſent contract, in ſo far as they ſtand thereby bound and obliged, and is any ways introduced and conceived in favours of the ſaid E. H. and heirs and bairns of the marriage betwixt her and the ſaid W. B. her future huſband, conform to the tenor thereof in all points; conſenting theſe preſents be regiſtered, *&c.* (*After this, inſert the clauſe of regiſtration, as in other contracts, as alſo a precept of ſeiſin for infefting the ſon and ſpouſe, by way of heritable ſtate and ſeiſin and liferent* reſpectivè, *in the lands and others wherein both are concerned, and for infefting the ſon in the barony and others wherein himſelf, not his wife, are concerned; but before,* in witneſs whereof, *be ſure to add theſe words,* and that with and under the expreſs reſervations, proviſions, conditions and limitations above ſpecified, and with the burden of the payment of the debts, and younger children their portions and proviſions above mentioned, in manner, and in the terms, and with the quality as to the ſaid E. H. her jointure, as above expreſſed, and no otherways; *and then ſay*) In witneſs whereof, the ſaid parties have ſubſcribed theſe preſents, written by ——, with their hands, day, month, year of God, and place *reſpectivè* foreſaid, before theſe witneſſes,

Nota, I have been the more full in this, becauſe I reſolve to inſert no contract of perſons of quality, leſt the perſons themſelves, even by the initial letters of their names, titles of honour and deſignations, may be known, and ſo the ſubject-matter and condition of their fortunes alſo, but give a ſhort account of the nature of contracts of perſons of quality; as for example, by ſome contracts, the father gives not the fee of his whole eſtate to his eldeſt ſon, but a competency, whereupon he and his lady, according to their birth and quality, may live comfortably, and like themſelves; and in this caſe, as the father reſerves to himſelf ſuch and ſuch manor-places, for his own reſidence, and likeways probably the half of the intereſt during life, ſo he likeways reſerves to himſelf the juriſdictions, priviſeges and caſualties thereof, as alſo, the benefit of the ſuperiorities and entering of vaſſals, liferent-eſcheats, and ſingle; if within a regality, with all the compoſitions of the ſaid entries and eſcheats. But in the mean time, the father not only accommodates his ſon and the lady ſufficiently, as to a reſidence, parks, yards and orchards, but alſo, that what given to them during the wedlock and marriage, for a preſent ſubſiſtence, amounts to ——, according to the agreement, and by a ſubſcribed rental given up, which the father is bound to be the true rental, as the lands and others particularly deſigned in the contract, paid for ſome years before, and at the time; and as to the lady, ſecures her in a jointure, by way of annuity, payable yearly at a certain term, out of the whole, as well reſerved to the father in liferent, as conveyed to the ſon in fee: And at other times, the father ſo complacent and well pleaſed with the marriage, that, to put the lady and her noble friends beyond all fear, he grants abſolute warrandice, and an obligement to relieve the ſon and the lady, and the heirs of the marriage, of all debts and real incumbrances that may burden and affect, either the fee given to the ſon, or annuity granted to the lady; *et ultra*, grants real warrandice for that effect in his other eſtate. And ſo much as to that point.

But at other times, conditions and terms of contracts alter, and of a contrary ſtrain; for the father gives to the ſon the fee of his whole eſtate, reſerving to himſelf what he judges convenient, in liferent, and with all the juriſdictions, eſcheats, and entry of vaſſals, and haill benefit and caſualties thereof, and even reſerves ſome feu-duties and blench-duties, to make his following the greater, and his liferent the more entire; but as for other ſuperiorities, not ſo near, he lets the feu-duties go to the ſon, only reſerves the juriſdictions, eſcheats

eſcheats and entries, *ut ſupra*, and withal reſerves ſuch manor-places, office houſes, yards and parks as he pleaſes, and right and privilege of ſelling the woods, and diſpoſing of the price thereof, patronages, and the like; as alſo, he reſerves his own lady's liferent, by contract and additional, and liberty to dwell in what manor-place ſhe pleaſes, and benefit of the office-houſes, parks, yards and orchards belonging thereto, during her lifetime, ſhould ſhe ſurvive; and as to the young lady, the father and ſon ſecures her in a yearly annuity during life, *ut ſupra*, and the conveyance of the fee in favours of the ſon, and of the annuity in favours of his lady, is by procuratory of reſignation, and precepts of ſeiſin; and in the cloſe of which procuratory, all the reſervations are particularly inſert, and the ſon is burdened with the payment of all the father's debts, conform to a ſubſcribed liſt, and the father reſerves likeways power to himſelf, to burden the eſtate with the payment of the ſum of —— Scots money, and, no doubt, for the better proviſion of ſome of his younger children, payable at ſuch terms as he ſhall think fit, and to grant bonds and other ſecurities, real or perſonal, for the ſame, bearing penalties and annualrent to and after the terms during the not payment; and with and under the which reſervations, proviſions, declarations, limitations, reſtrictions, power and faculty, the contract is entered into, reſignations and infeftments appointed to follow thereupon, and all appointed to be inſert therein, and no otherways. And this contract alſo contains warrandice, a right to the writs and evidents, tacks and rights of the teinds, and mails and duties, and the whole writs given to the ſon upon inventory; and the contract contains likeways precept of ſeiſin, and many more good and fine clauſes, and the ſon infeft by reſignation, but the lady by the precept of ſeiſin, and confirmed in my Lord's own charter of reſignation.

The next thing inſiſted upon, is a contract of marriage betwixt a burgeſs, whether merchant or tradeſman, being an heritor of tenements, ſhop, and booths, within a royal burgh, which hold of the King, *in libero burgagio*, or an heritor of ſalmon-fiſhing within the territory of the burgh, commonly called coble-fiſhing, net, oars, or the like, or mills which hold of the magiſtrates and community, and their ſucceſſors in place and office, feu, on the one part, and a gentlewoman whom he is to marry, on the other part; and whether it be of the one holding burgage, or the other holding feu, it is all one, for the ſtile as ſet down, tryſts with both; and ſhould matters, as they ſtand, tryſt but with one of the ways, the writer has no more to do than to omit the other: and ſo I ſet down,

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CONTRACT *of Marriage betwixt* A. B. *Merchant Burgeſs of* ——, *and* J. D. *lawful Daughter to* W. D. *of* ——

AT —— the —— day of —— 17— years, It is appointed, contracted, finally and matrimonially agreed and ended betwixt the parties following; They are to ſay, A. B. merchant burgeſs of ——, on the one part, and J. D. lawful daughter to W. D. of ——, with the ſpecial advice and conſent of her ſaid father, and the ſaid W. D. for himſelf, with her conſent, and both of them with one conſent and aſſent, and he taking burden in and upon him for her, to the effect after ſpecified, on the other part, in manner following: That is to ſay, The ſaid A. B. and J. D. with conſent foreſaid, have accepted, and by theſe preſents, accept each of them others for their lawful future ſpouſes, and faithfully promiſe, and bind and oblige them to perform, ſolemnize, and accompliſh the holy and honourable bond of matrimony with one another, in face of holy kirk, as God's word doth approve and allow, and that betwixt the date hereof, and the —— day of —— 17—, or ſooner, as the ſaid parties ſhall think convenient. (6) In con-

templation of the which marriage, the ſaid A. B. by theſe preſents, faithfully binds and obliges him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid J. D. his effidat ſpouſe, in liferent, during all the days of her lifetime, in all and haill his tenement of land, ſhop, booth and yard after ſpecified, lying within the ſaid burgh of ——, (*here take in the tenement, ſhop, yard and booth, as deſigned and bounded by the infeftment, and then ſay*) and alſo, in all and haill (*here inſert the ſalmon-fiſhing, as deſigned in the infeftment thereof, and then ſay*) and that in manner under written, *viz.* in the ſaid tenement of land, yard, ſhop and booth, with the pertinents, by reſignation, in manner after mentioned, to be holden of his Majeſty and royal ſucceſſors, in free burgage, in manner after expreſſed, and in the ſaid ſalmon-fiſhing, privileges, and pertinents thereof, by double infeftments and manner of holdings, the one thereof to be holden of the ſaid A. B. and his foreſaids, in free blench, for payment of one penny Scots money, at the feaſt of Whitſunday yearly, in name of blench farm, if it be aſked allenarly; and the other of the ſaid infeftments, to be holden from them of the provoſt and baillies of the ſaid burgh of ——, for themſelves, and as repreſenting the body and community thereof, ſicklike, and as freely in all reſpects, as the ſaid A. B. holds, or may hold the ſame himſelf, and by reſignation or confirmation in their option, the one but prejudice of the other, and to grant all rights requiſite and neceſſary thereanent, and for eſtabliſhing the right of ſucceſſion of the ſaid tenement, yard, ſhop, booth, and ſalmon-fiſhing, with the pertinents, in favours of the heirs of the ſaid marriage, which failing, of the ſaid A. B. his other heirs and aſſignees whatſoever, heritably and irredeemably, in manner, and in the terms after rehearſed, and upon the ſaid A. B. and his foreſaids, their own proper charges, moyen and expences, and with warrandice, as is hereafter expreſſed. And for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of the other infeftment above written of the ſaid ſalmon-fiſhing, the ſaid A. B. by theſe preſents, makes, conſtitutes and ordains ——, or any one of them, conjunctly and ſeverally, his very lawful, undoubted, and irrevokable procurators, actors, factors, and ſpecial errand-bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, his very full, free, plain power, expreſs bidding, mandate and charge, for him, in his name, and upon his behalf, to compear before the ſaid provoſt and baillies of the ſaid burgh of ——, as before his ſacred Majeſty and royal ſucceſſors, lawful ſuperiors of the ſaid tenement, yard, ſhop and booth, with the pertinents; and ſicklike, to compear before the ſaid provoſt and baillies of the ſaid burgh, or their ſucceſſors in place and office, for themſelves, and as repreſenting the whole body and community of the ſaid burgh, immediate lawful ſuperiors of the ſaid ſalmon-fiſhing, privileges and pertinents of the ſame, and that any day and place lawful and convenient, and there, with all due humility and condign reverence as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas the ſaid A. B. by theſe preſents, reſigns, ſurrenders, overgives and delivers, all and haill the foreſaid tenement of land, back and fore, high and low, under and above, with the yard and pertinents, and the ſaid ſhop and booth, all lying and bounded in manner above mentioned, and here holden

as

as for expreſſed *brevitatis cauſa*; and alſo, all and haill the foreſaid (*here inſert the ſalmon-fiſhing, as above deſigned, and then ſay*) and all pertaining heritably to the ſaid A. B. in the hands of the ſaid provoſt and baillies of ——, preſent or to come, as in the hands of his Majeſty and royal ſucceſſors, for what holds burgage, as ſaid is, and for themſelves, and as repreſenting the body and community of the ſaid burgh, as to the ſaid ſalmon-fiſhing, privileges and pertinents thereof above ſpecified, in favours, and for new infeftment of the ſame tenement, yard, ſhop, booth, ſalmon-fiſhing, and others above reſigned, with the privileges and pertinents thereof, to be made and granted to the ſaid A. B. and the ſaid J. D. his future ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and to the heirs lawfully to be procreate betwixt them; which failing, to the ſaid A. B. his other heirs and aſſignees whatſoever, heritably, to be holden in manner under written; the ſaid tenement, yard, ſhop and booth, with the pertinents, of his Majeſty and royal ſucceſſors, in free burgage, for ſervice of burgh uſed and wont, and the ſaid ſalmon-fiſhing, privileges and pertinents thereof, of the ſaid provoſt, baillies, and council of the ſaid burgh of ——, and their ſucceſſors in place and office, for themſelves, and as repreſenting the body and community thereof, in manner above expreſſed, and in ſuch due and competent form as accords, acts, inſtruments and documents, one or more, as need beis in the premiſſes, to aſk and raiſe, and generally all and ſundry other things thereanent, to do, uſe, and exerce, ſicklike, and as freely in all reſpects, as the ſaid A. B. might do therein himſelf, if he were perſonally preſent, promiſing to hold firm and ſtable, *&c.* And the ſaid A. B. hereby binds and obliges him and his foreſaids, to warrant this preſent right, reſignations and infeftments to follow thereupon, tenement, yard, ſhop, booth, ſalmon-fiſhing, privileges and pertinents of the ſame above mentioned, to the ſaid J. D. and heirs of the ſaid marriage, from all incumbrances and grounds of eviction whatſoever, in all time coming, at all hands, and againſt all deadly. And for the ſaid J. D. and heir of the ſaid marriage, their farther ſecurity thereanent, the ſaid A. B. hereby aſſigns, tranſfers and diſpones in their favours, for the ſaid J. D. her liferent uſe allenarly, and as to the heirs of the marriage, if they exiſt, for the fee, the writs and evidents of the ſaid tenement, yard, ſhop, booth, ſalmon-fiſhing, and others foreſaid made to him, his predeceſſors, cedents and authors, of and concerning the ſame, and all action competent hereon for ever, and conſtitutes the ſaid J. D. in liferent his aſſignee to the mails, profits and duties thereof, of the firſt term wherein he himſelf ſhall happen to deceaſe, in caſe ſhe ſurvive him, and yearly and termly thereafter, during her lifetime, and all action competent thereupon, alſo for ever; with full power to the ſaid J. D. in caſe ſhe ſurvive, as ſaid is, to intromit with, and uplift the ſaid mails, profits and duties, and to diſpoſe thereon at pleaſure, and to charge and purſue therefor before any judge competent, ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, and the ſame to due execution cauſe be put, and to do what elſe the ſaid A. B. might do therein himſelf, if he were on life; and the ſaid A. B. obliges him and his foreſaids, to warrant the ſaid aſſignation, and right to the ſaid writs and evidents, at all hands, and the ſaid aſſignation to the ſaid mails and duties, from his own proper

fact

fact and deed allenarly, and to warrant and relieve his ſaid future ſpouſe, of all ceſſes, taxations, and all other publick burdens whatſoever, due and payable forth of what provided to her in liferent, in manner foreſaid, of all years, terms, and months preceding her entry thereto, in caſe ſhe ſurvive him, as ſaid is; and whatever lands, heritages, tenements, annualrents, rooms, tacks and poſſeſſions it ſhall happen the ſaid A. B. to conqueſt and acquire during the ſaid marriage, he binds and obliges him and his foreſaids, to provide the one juſt and equal half thereof to, and to take the rights and ſecurities thereof, conceived in favours of himſelf and the ſaid J. D. his future ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and to the heirs lawfully to be procreate betwixt them, which failing, as ſaid is, and to provide the other juſt and equal half of the ſame to, and take the rights and ſecurities thereof conceived in the perſon of himſelf, and heirs of the ſaid marriage, which failing, to the ſaid A. B. his other heirs above ſpecified, and their aſſignees. And farther, the ſaid A. B. hereby provides his ſaid future ſpouſe, in caſe there be children of the marriage ſurviving the father, to the third, and if not, to the half of the inſight and pleniſhing of the houſe, heirſhip excepted; and which third or half, in the reſpective caſes, and that ſhe ſurvive him, he, by theſe preſents, aſſigns and diſpones in her favours, and with power to her, upon his deceaſe, to retain, intromit with, poſſeſs, uſe and diſpoſe thereupon at pleaſure, and as her own proper goods and gear, and without being liable to any debt, whereof he obliges him and his foreſaids, to relieve her; and which liferent proviſion above ſpecified, together with the liferent of the ſaid half conqueſt, and third or half of the ſaid inſight and pleniſhing, in the reſpective caſes, excepting heirſhip, as ſaid is, the ſaid J. D. with conſent foreſaid, hereby accepts, in full contentation and ſatisfaction of all other conjunct fee, liferent, terce, executry, and what elſe ſhe can any ways aſk, ſeek or crave, by or through the deceaſe of her ſaid huſband, reſerving his own good-will allenarly; for the which cauſes, the ſaid W. D. by theſe preſents, faithfully binds and obliges him, his heirs, executors and ſucceſſors, and intromitters with his goods and gear whatſoever, to content, pay and deliver to the ſaid A. B. his heirs and aſſignees, ſecluding executors, the ſum of —— Scots money, in name of dote and tocher-good with the ſaid J. D. his daughter, and that betwixt the date hereof, and the feaſt and term of —— next to come, but longer delay, with the ſum of —— money foreſaid of liquidate expences, in caſe of failzie, attour the ſame, and together therewith; together alſo with the due and ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly, and continually, during the not payment thereof after the ſaid term, but prejudice always to the ſaid A. B. and his foreſaids, to ſuit execution hereupon, for payment of the ſaid ſums at the ſaid term, or at any other term or time thereafter they pleaſe, notwithſtanding of the foreſaid clauſe made anent payment of annualrents; and which tocher-good above ſpecified, the ſaid J. D. with conſent of her ſaid future huſband, and he taking burden in and upon him for her, by theſe preſents, accepts in full contentation of all other proviſion, executry, portion-natural, bairns part of gear, and what elſe ſhe may any ways aſk, ſeek or crave, by or through the deceaſe of her ſaid father, by whatſoever manner of way,

and

and whereof ſhe and her ſaid future huſband hereby diſcharges him and his foreſaids, for now and ever, reſerving his own good-will allenarly. And it is hereby declared, and expreſly agreed to, and condeſcended upon betwixt the ſaid parties, that execution ſhall paſs hereupon, at the inſtance of the ſaid W. D. the father, he being on life, and failing of him by deceaſe, at the inſtance of ——, as friends nominate for that effect, or of any one of them on life for the time, and failing of all of them by deceaſe, at the inſtance of their, or either of their heirs, or eldeſt ſons, againſt the ſaid A. B. and his foreſaids, for implement and fulfilling of his part of this preſent contract, in ſo far as the ſame is introduced and conceived in favours of the ſaid J. D. and heirs of the marriage. Conſenting theſe preſents be regiſtered, *&c.*

Nota, The next thing propoſed, is a contract of marriage betwixt two parties, and where the young gentleman has no heritage, but money; and to be the more curt therein, I ſhall ſuppoſe the perſons to be thoſe in the contract immediately above written.

CONTRACT *of Marriage betwixt* A. B. *Merchant Burgeſs of* —— *and* J. D. *lawful Daughter to* W. D. *of* ——

AT —— the —— day of —— 17— years, It is appointed, contracted, finally and matrimonially agreed and ended betwixt A. B. *&c.* (*here take in the preamble of the former contract, until ye come to the figure* (6), *and then ſay*) In contemplation of the which marriage, the ſaid A. B. by theſe preſents, faithfully binds and obliges him, his heirs, executors, and ſucceſſors, and intromitters with his goods and gear whatſoever, to provide and have in readineſs, of his own proper means and eſtate, all and haill the ſum of —— Scots money, and that betwixt the date hereof, and the feaſt and term of —— next to come, but longer delay, and to ware, beſtow and employ the ſame, with the tocher-good after ſpecified, making up in the haill the ſum of —— money foreſaid, upon well holden land, and in a convenient place within this kingdom, or upon bond or other ſufficient ſecurity, in reſponſal mens hands for annualrent, at the ſight, and by the advice of the ſaid W. D. he being on life; and failing of him by deceaſe, of ——, as friends nominated for that effect, or any one of them on life for the time; and failing of all of them by deceaſe, of their, or either of their heirs, or eldeſt ſons, to be forthcoming to the ſaid A. B. and the ſaid J. D. his future ſpouſe, the longeſt liver of them two, in conjunct fee and liferent, and to the heirs lawfully to be procreate betwixt them; which failing, to the ſaid A. B. his other heirs and aſſignees whatſoever; and how oft it ſhall happen the foreſaid ſum to be uplifted, to re-employ the ſame as oft of new again, in manner, to the effect, and by advice, and at the ſight above ſpecified—(*After this, take in the clauſe of the conqueſt, the wife's proviſion as to the houſhold pleniſhing, and other clauſes in the former contract, as to the payment of the tocher-good, and all* uſque ad finem; *only, whereas in the former, execution is appointed to paſs at the inſtance of ſuch perſons, in this*

contract,

contract, make it only at the inſtance of the perſons above named. *becauſe the money is to be employed at their ſight; and ſo being once named, repetitions are needleſs; and then follows the regiſtration, according to the ſtile of contracts.*)

Nota, In ſome contracts, not only the certain proviſion of the money, I mean the tocher, and what obliged to be adjoined thereto, but alſo the very conqueſt are taken, and conceived in favours of the heirs and bairns of the marriage, which I think ſingular, there being thereby no diſtinction betwixt the heir and the youngeſt child; and therefore, at times, I have made the proviſion of the money in favours of the heir of the marriage, but the conqueſt to the heirs and bairns, whereby the heir was thereby ſtated in ſome more than the younger children; and ſeemed reaſonable, becauſe of his preference by birth.

I have alſo ſeen in ſome contracts, that failing of children of the marriage, the tocher and money to be adjoined by the huſband, albeit more than the tocher, was appointed and deſtinated by the ſubſtitution, to appertain, accreſce, and belong to the huſband, and his heirs and aſſignees, and to the gentlewoman, and her heirs and aſſignees, by equal halves; and at other times, the tocher was only appointed to return and revert to the wife, and her heirs and aſſignees, after the huſband's deceaſe; and at other times, at the firſt term after the wife's deceaſe, which was hard, and no gratification for the loſs of his wife and children, if any procreate, and all the expence in courting, maintaining of the family and burials, and at other times carried expence in caſe of failzie, and annualrent thereafter, during the not payment. Yet harder,

I have alſo ſeen, in ſome contracts below the degree of noblemen and gentlemen of quality, where the tocher was not accepted in contentation of all other proviſion, *&c.* that might be expected, or fall by the father's deceaſe; but on the contrary, the daughter declared to remain and continue a bairn of the houſe *ſimpliciter*, and without any qualification or reſtriction; and at other times, that benefit was qualified thus; the reſt of the children being firſt provided to as much as the daughter married had in portion, and thereby all became equal; but in theſe and like caſes, contracts muſt be drawn as matters are concerted betwixt parties, where the writer ſhould always be impartial, and not farther intereſted, than the pure and genuine communing of parties, which ſhould be always his rule.

In contracts betwixt a nobleman's ſon (or other gentleman) and an heritrix, the eſtate goes by a procuratory of reſignation in the ſuperior's hands, for new infeftment to the nobleman's ſon (or gentleman) and the heritrix, and to the longeſt liver of them two, in conjunct fee and liferent, and to the heirs male, and ſometimes to the heirs whatſoever, lawfully to be procreate betwixt them; which failing, the fee ſometimes terminates upon the huſband and his other heirs and aſſignees; and at other times terminates upon the lady's other heirs and aſſignees; and at other times (if the eſtate was tailzied to other perſons, failing of ſucceſſion of the maker of the tailzie his body) then that tailzie is obſerved in the ſubſtitution; not but if the lady pleaſe, if there be no proviſion in the tailzie to the contrary, and an amiſſion and tinſel of the eſtate, in caſe of contravention, ſhe may, by a new procuratory, alter the tailzie, and terminate the fee upon the huſband and his other heirs, failing of ſucceſſion of the marriage; and I have ſeen it, but failing of heirs of the marriage, or of the lady's body in any other marriage, and that thereby the eſtate devolve upon the huſband, and his other heirs, the ſaid heirs were always to be of the lady's ſurname, and to carry and bear the arms, cogniſance and ſtyle of her family, as well as the preſent huſband, and deſcendents of his body in the preſent marriage, or of her own body in any other marriage: And in caſe, failing of heirs-male of the preſent marriage, the eſtate deſcended to, and devolved upon the heir whatſoever procreate therein, then the eldeſt daughter was not only preferred, and without diviſion, to the ſucceſſion, but alſo ſhe obliged to marry a gentleman of the name, or a nobleman or gentleman who (and deſcendents of his body in the ſaid marriage) ſhould aſſume the name, and carry and bear the arms, cogniſance and ſtyle of the family; and if they contravened, to amit and tine the right of the eſtate, and to deſcend to the next in blood, and in order of ſucceſſion, with

the

the ſame proviſions and quality: And this contract bears, that they ſhall not ſell, diſpone, wadſet, grant rights of annualrent, or contract debt, or do or commit any other fact or deed, whereby the eſtate may be any ways appriſed, adjudged, evicted or forfeited, in prejudice of the tailzie or next in ſucceſſion; and all which deeds are not only declared void and null, but the contraveners amit and tine their right of the eſtate, and *ipſo facto*, deſcends and devolves upon the next in blood and order of ſucceſſion; who, in caſe of contravention, are allowed to purſue and oblige the contraveners to denude themſelves of all right and pretence they have to the eſtate, in favours of the next heir and order of ſucceſſion, and that by way of declarator, adjudication, or otherways, as may beſt conſiſt with the laws and cuſtoms of the kingdom in the like caſes. And farther, if for any debts contracted, they ſuffer the eſtate to be appriſed or adjudged, they are bound to redeem the ſame within year and day (and ſometimes two years) before expiration of the legal; and if they fail therein, the next in order of ſucceſſion may do it, and poſſeſs the eſtate until repaid of what advanced, for acquiring the ſaid appriſings or adjudications, *cum intereſſe et omni alio damno*, and declared to be no further liable than actual intromiſſions: But at other times, tailzies are more ſtrict, and the contravener amits and tines the eſtate *plenarie*, without they redeem the appriſings or adjudications within the time prefixed; only the next in order of ſucceſſion (albeit by the privilege and latitude given them by the tailzie) may and do redeem, yet can make no other uſe of theſe acquiſitions, than to fortify and ſtrengthen, and corroborative of their other rights and title to the eſtate, and ſtill obnoxious to all the irritancies of the tailzie, in caſe of contravention; but the males ſucceeding to the eſtate may provide their ladies to competent liferents, and their younger children to competent portions, not exceeding (in either) the bounds and limits prefixed in the tailzie; and likewiſe, if a female ſucceed, may provide her huſband to a liferent, and younger children to portions, not exceeding (in either) the *quota* and *ultimum quod ſic*, preſcribed by the tailzie, which (in all the parts thereof) muſt be obſerved, and the ſame or order of ſucceſſion not to be innovated, hurt or infringed, elſe the contravener amits and tines the right and benefit of the eſtate *ut ſupra*. Theſe, and many other things have I ſeen in tailzies of great import; and refers you to the two ſignatures, the one, p. 235, and the other p. 256.

There be at times a contract of marriage betwixt a lady of honour, a liferentrix of a conſiderable proviſion a-year, and a nobleman, at the time under incumbrances, (not without hope of recovery, as to his ſtate and condition in a world;) and the lady, having affection for him, ſtepped over theſe difficulties; but, in the mean time, and to guard againſt theſe inconveniencies in the contract, reſerved, *per expreſſum*, to herſelf the whole dominion and power of her jointure, and what elſe belonged to her, with power to her to diſpoſe thereof at her pleaſure, as well during the wedlock as afterwards (ſhould ſhe ſurvive) and exclude the huſband's *jus mariti*, and all his creditors; and he, upon the other part, diſcharged the ſame, and all intereſts, not only *jure mariti*, but of the law, to which he might pretend right, in her favours, perſonally, and with power to her, by herſelf alone, and without his conſent, to diſpoſe thereof, and to ſet and raiſe tenants, uſe warnings, grant tacks for what ſpace and years, and to whom, and for what tack duty, cuſtom and ſervices ſhe judged expedient; and to grant diſcharges thereupon, which ſhould be ſufficient to the receivers, and ſicklike and as freely in all reſpects, and to all intents and purpoſes as if he actually conſented, yea, as if ſhe were a ſingle perſon, and the marriage never entered into, or conſummated; but the lady made no bad uſe of her power, having employed the rent for payment of debt yearly: Other ladies, again, reſerved but the half, in terms aforeſaid.

Others, again, not only reſerved *ut ſupra*, but, by the contract, it was provided, agreed to, and condeſcended upon, that ſhe might live in family with her huſband, or elſe where, within or without the kingdom, at pleaſure, and to diſpoſe of her own rents where ſhe pleaſed to have her reſidence for the time; and all which the huſband ratified, ceded to, and obliged never to quarrel or impugn the ſame, or come in the contrary, and perſons nominate at whoſe inſtance execution might paſs for implement.

Other ladies, again, before contract or marriage, (to guard againſt ſuch inconveniencies) diſponed the jointure to a friend, who gave back-bond to her, only for her perſonal aliment, live where ſhe pleaſed, within or without the kingdom, and ſecluding all aſſignees and *jus*

mariti, ſhould ſhe marry, and all her huſband's creditors; and ſhould the ſame be controverted, the back-bond to be null, and the ſubject-matter to revert and return to himſelf, as if never granted: a moſt entire truſt and repoſe at will in the friend.

I have ſeen another contract, (and was writer of it) by which the huſband, being married formerly, provided the wife in liferent, and children of the marriage in fee, to a certain ſum, and to the whole conqueſt of the marriage in liferent and fee, as ſaid is; and albeit there were children procreate, yet afterwards deceaſing, and little appearance of more, the huſband having ſeveral children of the firſt marriage, and having made conqueſt during the firſt, and alſo during the time of the ſecond marriage, and being a very honeſt man, and deſirous to ſettle affairs, and redd the march betwixt his children of the firſt marriage and wife of the ſecond, to prevent after-debates, he falls upon this method, (and moſt imitable) as now circumſtantiate; he puts his wife in liferent of ſeveral ſums due to him by bond, to the extent of the particular ſum obliged to in the contract, and the children of the firſt marriage (as it pleaſed him to divide) in the fee thereof, and by another right puts her in liferent, and the children of the firſt marriage in fee of other ſums due to him by other perſons by bond, and to the full extent of all the conqueſt, during the ſecond marriage; and, by the firſt right, declared the ſums wherein he put his wife in liferent, to be in contemplation and ſatisfaction of the particular ſum obliged to, (as a meiting to the tocher) by the contract of marriage; and by the other right, declares her liferent of theſe ſums to be in contemplation of the liferent of the conqueſt; but as he was not able to give ſo great portions to the children of the firſt marriage, ſhould children afterwards be procreate in the preſent marriage; ſo, to guard againſt that inconvenience, he reſerved not only the liferent of the whole ſums to himſelf, during life, but alſo a power and faculty, at any time in his lifetime, *etiam in lecto ægritudinis et in articulo mortis*, to uplift the ſums, and either diſcharge or aſſign them, and that by himſelf alone, and without conſent of wife or children, or the childrens heirs, *&c.* or of the childrens tutors or curators, if minors, or of their huſbands, if married; and by that faculty, put himſelf in capacity, (if any children procreate afterwards in the preſent marriage) to alter what done by the former rights, and provide all as he might beſt, and ſo a good ſafeguard; and ſhould there be no children of the preſent marriage, the children of the firſt marriage were obliged to adhere to, and not quarrel one another's proviſions, and rights, made, or to be made by the father; and even the rights made to the children of the firſt marriage, being all females, was to themſelves, and heirs of their bodies, or aſſignees by contract of marriage; and failing of any of them by deceaſe, without heirs of their bodies, or aſſignation made by contract of marriage, the portion of the daughter deceaſed was tailzied and entailed upon the ſurviving daughters, and their heirs and aſſignees; and the not delivery of the writs and rights in his own lifetime, but their being in his own cuſtody, or given to a confident for their uſe, declared to be no nullity or ground of reduction, but diſpenſed with.

The next ſubject-matter propoſed, is, there be two gentlemen that have conſiderable eſtates; but each of them have a part thereof, remote from, and diſcontiguous to their principal eſtate or manor-place, and yet contiguous to the other gentleman's principal eſtate; whereupon they fall upon the excambion of theſe lands ſo diſcontiguous, for the accommodation and conveniency of both parties; as to the ſtyle whereof, I muſt, in the firſt place, ſhew what I have ſeen of ancient ſtyles in ſuch excambions, *viz.* the one, whom I call A. B. of ——— by a particular diſpoſition, diſponed his lands of W. *&c.* to J. H. of ——— in excambion of the lands of M. *&c.* diſponed by the ſaid J. H. to the ſaid A. B. by diſpoſition of the ſame date; but with this proviſion, that in caſe of eviction of the ſaid lands of M. *&c.* from the ſaid A. B. or his heirs, ſucceſſors and aſſignees, in any time coming, then, and in that caſe, the ſaid A. B. and his foreſaids, ſhall have free regreſs, ingreſs and acceſs in and to the ſaid lands of W. *&c.* diſponed by him to the ſaid J. H. in excambion thereof, at leaſt ſo much of the ſame as will correſpond and be effeiring, in quantity, quality and yearly duty, to the eviction, and at the firſt term after the ſaid eviction, and that *brevi manu* at their own hand, without any hazard of ejection, or peril of intruſion to be incurred by them therethrough, and but any neceſſity of warning, decreet of removing, declarators,

tors, or others to proceed thereupon. After this followed the obligement to infeft, procuratory of reſignation, abſolute warrandice; and to which was annexed, that proviſion of making intimation to the ſaid diſponer, of any action of eviction that ſhould be intended, (at leaſt before litiſconteſtation in the cauſe) that they may compear, concur and defend therein; and to make all the writs delivered upon inventory forthcoming for that effect, aſſignation to the writs and evidents, mails and duties, and to relieve of ceſs, *&c.* ſtipends, *&c.* and the like, regiſtration and precept of ſeiſin.

Nota, That, *è contra*, J. H. diſponed his lands of M. *&c.* to the ſaid A. B. in excambion of the lands of W. *&c.* diſponed by the ſaid A. B. to him, with the ſame recurrency to his own lands, in caſe of eviction; and in the very and preciſe terms and ſtyle above ſet down, *mutatis mutandis*.

But my maſter, Mr. John Bane of Pitcarly, was ever of the opinion, that as this of double diſpoſitions, and in ſeveral papers, were tedious, ſo there was an inconvenience in it; for if action of eviction were intented, and that eviction actually followed, the party whoſe land was evicted, was not maſter of the diſpoſition granted by himſelf, (and in which that condition and proviſion of the recurrency was comprehended) and ſo an abſolute neceſſity, even notwithſtanding of the other proviſion in the right upon the eviction, to recur, and poſſeſs *brevi manu*, *&c.* to uſe warning, and obtain decreet of removing, and declarator; and therefore, and to prevent this inconvenience, my maſter made the excambion by way of contract, and approven by Sir John and Sir Andrew Gilmours and Sir John Niſbet, when advocates, and were known to be great and eminent lawyers in their time; and as it proves a more laconic ſtyle, ſo it obviates the former inconvenience, becauſe the contract bears the quality and condition of the right, and power to recur; and the extract of the decreet of eviction proves *in quantum* evicted, that the recurrency may be correſpondent. And now having given you the difference betwixt ſtyles, and the good of the one, and the inconvenience of the other, I, in the next place, and curtly, ſet down a ſtyle of a contract of excambion, in imitation of Pitcarly, as he was a great penman; but men may chuſe either way, as they pleaſe, and as adviſed by lawyers.

CONTRACT *of Excambion of Lands* (hinc inde) *betwixt* A. B. *of* ——— *and* J. H. *of* ——— *for the Conveniency of both Parties, and judging both Lands to hold Feu or Blench, not Ward, ſimple or taxed.*

AT ——— the ——— day of ——— 17— years: It is appointed, contracted, finally agreed and ended betwixt the parties following: They are to ſay, A. B. of ——— and J. H. of ——— on the one and other parts, in manner following: That is to ſay, Foraſmuchas the ſaid parties, conſidering, that their reſpective lands after ſpecified, diſponed by them to one another, are remote from their other and greater eſtates, and that therethrough they judge it moſt proper and expedient (for the good and convenience of both, and of their heirs and ſucceſſors) to enter into, and make the right and conveyance after mentioned, by way of excambion, exchange and permutation, in manner, in the terms, and with and under the expreſs conditions, proviſions, declarations and power, and liberty of recurrency, each party to their own proper intereſt, now diſponed in the caſe of eviction, as is hereafter expreſſed; therefore, (and in order thereto) the ſaid A. B. for implement and fulfilling of his part of the ſaid propoſed tranſaction and excambion, and reſolved upon, has ſold, annalzied and diſponed,

poned, and by theſe preſents, ſells, annalzies and diſpones, to and in favours of the ſaid J. H. and heirs-male of his body, which failing, of his other heirs-male and of tailzie ſpecified and contained in the rights and infeftments of his other lands and eſtate of ——, here holden as for expreſſed *brevitatis cauſa*, and declared to be as ſufficient as if herein particularly mentioned and ſet down, albeit not ſo done, whereanent diſpenſes for ever, and their aſſignees, heritably and irredeemably, all and haill the ſaid A. B. his lands of W. *&c.* lying within the pariſh of —— and ſheriffdom of —— in exchange, permutation and excambion of the other lands and others after ſpecified, diſponed by the ſaid J. H. to him, in manner after mentioned; and ſicklike, the ſaid J. H. (in order to the ſaid excambion, and for implement and fulfilling of his part of the ſaid tranſaction propoſed, and now reſolved upon thereanent) by theſe preſents, ſells, annalzies and diſpones to the ſaid A. B. and heirs-male of his body, which failing, his other heirs-male and of tailzie ſpecified and contained in his rights and infeftments of his other lands and eſtate of ——, here holden as for expreſſed *brevitatis cauſa*, and declared to be as ſufficient as if herein particularly mentioned and ſet down, albeit not ſo done, whereanent alſo diſpenſes for ever, and their aſſignees, heritably and irredeemably, all and haill the ſaid J. H. his lands of M. *&c.* lying within the pariſh of —— and ſheriffdom of ——, and that in exchange, permutation and excambion of the other lands and others above written, diſponed by the ſaid A. B. to the ſaid J. H. and his foreſaids, in manner above expreſſed; but the ſaid excambion is made, the ſaid contract entered into, and diſpoſition granted by the ſaid parties to one another accordingly, and upon the conſideration above rehearſed, with this expreſs condition, proviſion and declaration always, likeas it is hereby ſpecially provided and declared, and be it ſo provided and declared, by the reſignation and infeftment to follow hereupon *hinc inde*, that in caſe it ſhall happen any of the ſaid lands and others foreſaid, ſo excambed and diſponed, to be evicted, at any time hereafter, from the perſon to whom now diſponed, or his heirs-male and of tailzie above ſpecified, or their aſſignees; that then, and in that caſe, the perſon whoſe lands and others ſhall be evicted, and his foreſaids, ſhall have full and free regreſs, ingreſs and acceſs in and to the lands and others diſponed, in contemplation and excambion thereof, as ſaid is, at leaſt ſo much thereof (and firſt, beſt and readieſt of the ſame) as will effeir and correſpond, in quantity, quality and yearly duty, to the eviction, and at the firſt term after any ſuch eviction, and that *brevi manu*, at their own hand, but any hazard of ejection, or peril of intruſion to be ſuſtained or incurred by them therethrough, and but any neceſſity of warning, decreet of removing, declarator, or others of the law competent to follow thereupon; and to be peaceably poſſeſſed, bruiked and enjoyed by him and his foreſaids, as their own proper lands and heritage in all time thereafter, and as if this preſent contract of excambion had never been entered into, at leaſt ay and while the ſaid eviction, and grounds thereof, be ſufficiently cleared and purged, and the perſon ſo diſpoſſeſſed, by virtue thereof, peaceably reponed and repoſſeſſed in the lands and others evicted from him, in manner foreſaid; and upon the which expreſs condition, proviſion, declaration,

power

power and liberty above mentioned, this preſent contract is entered into, and reſignation and infeftments appointed to follow thereupon, and no otherways, and ſtill but prejudice always of the abſolute warrandice under written, in manner after expreſſed. And the ſaid parties faithfully bind and oblige them, their heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe each of them others in the reſpective lands and others above ſpecified, diſponed by them to one another in excambion, in manner foreſaid, and that by double infeftments and manner of holdings, the one thereof to be holden of the diſponer, and his foreſaids, in free blench, for payment of one penny Scots money upon the ground of the ſaid lands at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and relieving them of the feu or blench-duty due and payable to their ſuperior forth of the ſame in time coming; and the other of the ſaid infeftments to be holden from the diſponer, and his foreſaids, of the ſuperior, as freely in all reſpects, as the ſaid A. B. and J. H. held, or may hold the ſame themſelves, and that by reſignation or confirmation, in the receiver's option, the one but prejudice of the other; and for that effect, both the ſaid parties alſo bind and oblige them, and their foreſaids, to make, grant, ſubſcribe and deliver each of them to others, and their foreſaids, ſufficient diſpoſitions, containing procuratories of reſignation, charters containing precepts of ſeiſin, and other ſecurities requiſite and neceſſary thereanent, with warrandice in manner after rehearſed, and the ſecurities and infeftments of each party being on his own proper charges, moyen and expences: And for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of the other infeftment above written, both the ſaid parties have made, conſtituted and ordained, and by theſe preſents, make, conſtitute and ordain ——— and each one of them, conjunctly and ſeverally, their very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand-bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, their very full, free, plain power, expreſs bidding, mandate and charge, for them, in their name, and upon their behalf, to compear before their reſpective immediate lawful ſuperiors of the ſaid lands and others foreſaid, or their commiſſioners in their names, having their power to receive reſignations, and thereupon to grant new infeftments, and that any day and place lawful and convenient; and there, with all due humility and condign reverence as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas the ſaid A. B. and J. H. by theſe preſents, reſign, ſurrender, overgive and deliver, all and haill the lands and others above and after ſpecified, each one of them for their own parts, as is after divided, *viz.* The ſaid A. B. by theſe preſents, reſigns, ſurrenders, overgives and delivers all and haill the foreſaid lands of W. *&c.* pertaining heritably to him, and lying as ſaid is, and in permutation and excambion, in manner foreſaid, in the hands of his ſaid ſuperiors, or their commiſſioners above ſpecified, in favours, and for new infeftment thereof, to be made and granted to the ſaid J. H. and his foreſaids, heritably and irredeemably; and ſicklike, the ſaid J. H. by theſe preſents, reſigns, ſurrenders, overgives and delivers, all and haill the foreſaid lands of M. *&c.* pertaining

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ing heritably to him, lying as ſaid is, and in permutation and excambion, in manner above rehearſed, in the hands of his ſaid ſuperiors, or their commiſſioners above mentioned, in favours and for new infeftment of the ſame, to be made and granted to the ſaid A. B. and his foreſaids, heritably and irredeemably, as ſaid is; to be holden, all the ſaid lands, and others above diſponed and reſigned, with the pertinents of the ſuperiors thereof above expreſſed, and in ſuch due and competent form as accords; but with and under the expreſs condition, proviſion, declaration, power and liberty above ſpecified, and that *hinc inde* as to both parties and their foreſaids, and in the ſaid poſitive and preciſe terms above rehearſed, and hereby appointed to be at length inſert and engroſſed in the inſtrument of reſignation, and infeftments to follow hereupon in all points, and no other ways, acts inſtruments and documents, one or more, as need beis, in the premiſſes to aſk and raiſe, and generally all and ſundry other things thereanent to do, uſe and exerce, ſicklike, and as freely in all reſpects, as the ſaid A. B. and J. H. as to their reſpective intereſts now tranſmitted, diſponed and conveyed by way of excambion, in manner foreſaid, might do therein themſelves, if they were perſonally preſent; promiſing to hold firm and ſtable, *&c.* and which infeftments, and either of them, ſhall bear and contain this expreſs clauſe of warrandice following: Likeas now, as if the ſaid infeftments were already made and paſſed, and then as now, the ſaid A. B. and J. H. by theſe preſents, faithfully bind and oblige them, and their foreſaids, each of them to others, to warrant, acquit and defend the foreſaid contract, right and diſpoſition, reſignation and infeftments to follow thereupon, lands and others therein contained, diſponed by them to one another in permutation and excambion in manner foreſaid, to be ſufficient, free, ſafe and ſure to one another, and to their foreſaids, from all and ſundry wards, reliefs, non-entries, marriages, eſcheats, liferents, forfeitures, inhibitions, interdictions, recognitions, diſclamations, purpreſtures, former alienations, private and publick infeftments, conjunct fees, ladies terces, appriſings, adjudications, annuities, annualrents, reductions of infeftments, ſervices and retours, tacks, aſſedations long or ſhort, and generally from all other perils, burdens, dangers and inconveniencies whatſoever, as well not named as named, bygone, preſent as to come, which may anyways ſtop, trouble or impede them in the peaceable poſſeſſion, bruiking and enjoying of the ſaid lands and others foreſaid, diſponed by them to one another, in permutation and excambion, in manner above rehearſed, or intromiſſion with the mails and duties of the ſame, of the crop and year particularly after aſſigned, being the firſt crop and year of their entry to the reſpective lands and others above diſponed, with the pertinents, and thereafter in time coming, at all hands, and againſt all deadly, as law will: Providing always, likeas it is hereby expreſly provided and declared, that in caſe any action of eviction of the ſaid lands and others foreſaid, diſponed by either party to others, ſhall happen, at any time hereafter, to be intented, moved and purſued at the inſtance of any perſon or perſons pretending right thereto, that the perſon whoſe right ſhall be ſo called and brought in queſtion, ſhall be holden and obliged, and by theſe preſents, binds and obliges him, and his foreſaids, to make due and lawful intimation

intimation thereof to the other party, disponer of these lands called in question, and to his heirs and successors, at least before litiscontestation be made in the cause, and that personally, or at their dwelling-place for the time, if within the kingdom, and failing thereof, at the market-cross of Edinburgh, and pier and shore of Leith, and to their tutors and curators, if minors, for the time, at that person's dwelling-house, where he used to reside when within the kingdom, and market-cross of the shire where his lands and estate lies, and that in presence of a notary and famous witnesses, and affix and leave copies of the said intimation at the said places and crosses, that he may be the more and better certiorate of any such distress, and may compear and defend therein; and with this provision also, that the person whose right is controverted and called in question, make all the writs and evidents of the lands controverted, and now delivered upon inventory, forthcoming to the other party, liable in warrandice for that effect; and sicklike, excepting always forth and from the said absolute warrandice, the tacks after specified, set by either party of the excambed lands to the tenants after named, for payment of the duties under written, as to the years thereof yet to run, *viz. (here insert the tacks, as after set down in the disposition, with the other clauses and provisions annexed thereto, that the execution shall infer no homologation,* &c. *and likeways let either party assign the other to the tacks of their respective lands, and tack-duties therein contained, of the crop and year —— and thereafter in time coming, during the continuance and not expiration thereof, and to the mails and duties after expiration, and whereof ye have a pattern in the said draught. After this, insert this clause:* And it is hereby expressly provided and declared, agreed to, and condescended upon betwixt the said parties, *ex utraque parte*, that the foresaid clause of absolute warrandice is and shall be but prejudice to them of the foresaid other provision, condition, declaration, power and liberty of regress, ingress and access to their own lands, upon the said eviction, and in the positive and precise terms, way and manner above specified and prescribed; and that the foresaid other provisions, condition, declaration, power and liberty aforesaid, are and shall be but prejudice of the said absolute warrandice; and that it shall be still leisome and lawful to them, and their foresaids, and in their power, as they may be concerned, and matters fall out, to make use of both, or either of them, conjunctly and severally, as accumulative or distinct rights or warrandices, in their option, and that but any innovation or confusion of rights or warrandice. 2*do*, *To insert the assignation and right to the writs and evidents of the lands, tacks, and rights of the teinds, mails and duties, and words*, with full power, &c. *and the warrandice of the right of the lands, teinds, and mails and duties, as in the after disposition, without the contrary be acted and transacted betwixt parties.* 3tio, *Insert the clause of relieving one another, as to the respective interests disponed, of all feu and blench-duties, ministers and schoolmasters stipends,* &c. *and delivery of the writs, as in that very draught, only that being a disposition, the disponer or obligant there speaks in the first person; and in this, being a contract, ye must make both parties speaking in the third person; and as to the registration and precept of seisin, it must be so also; and the precept would distinguish whereof to give seisin*

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to the one, and whereof to the other, becauſe of the excambion; and be ſure that the precept, before in witneſs whereof, *bear*, And that with and under the expreſs conditions, proviſions, declarations, power and liberty of recurrency, regreſs, ingreſs and acceſs, in caſe of eviction of either party's right and intereſt above diſponed, in the way, manner, and according to the preciſe and poſitive terms above expreſſed, and at length contained in the ſaid diſpoſitive clauſe, and here holden as for expreſſed *brevitatis cauſa; and then ſay)* In witneſs whereof, both the ſaid parties have ſubſcribed theſe preſents, (written by———,) with their hands, day, month, year of God, and place *reſpectivè* foreſaid, before theſe witneſſes,

The next thing to be fallen upon, is the manner of conveyance of lands, with a reſervation of the right of the half of the coal in the ground; and the party who acquires this right, with that reſervation, diſpones to the other party the half of the coal in a part of his barony, which makes a communication, and both joins in winning the coal at their reſpective charges, according to the proportion agreed upon, and but to continue for ſome years; and with ſeveral privileges and liberties, as building houſes, ſetting down of ſinks, *&c.* for the uſe and accommodation of the work and workmen; and yet limit from encroaching upon, or prejudging the foundation of the manor-place of the barony, office-houſes, avenues, *&c.* And for your better information, I ſet down the contract as it was ſubſcribed, not written, but reviſed by me and lawyers on both ſides.

CONTRACT *anent the Sale of Lands and Coal.*

AT ——— the ——— day of ——— —— years: It is appointed, contracted, and finally agreed betwixt the parties following, *viz.* J. L. M. eldeſt lawful ſon to J. M. of A. *&c.* with the ſpecial advice and conſent of, and taking burden upon him for L. K. M. his ſpouſe; and the ſaid L. K. M. for herſelf, with conſent of her ſaid huſband, and them both, with one conſent and aſſent, on the one part, and T. H. of B. with advice and conſent of, and taking burden upon him for M. M. D. his ſpouſe; and the ſaid M. M. D. for herſelf, with the conſent of the ſaid T. H. her huſband, and them both, with one conſent and aſſent, on the other part, in manner following: That is to ſay, Forasmuchas it is agreed betwixt the ſaid parties, that B ſhall diſpone to the ſaid noble L. the lands of L. and Eaſter and Weſter H. for the ſum of money, and in lieu of the communication of the coal after mentioned, under the proviſion and reſervation after ſpecified; as alſo, it is agreed, that the ſaid J. L. M. and T. H. of B. and their heirs *reſpectivè*, ſhall have equal right to the haill coals, not only of the ſaid lands of L. and Eaſter and Weſter H. but alſo of the ſaid L. M. his haill other lands, lying within the barony of H. on the ſouth ſide of the water of A. with power to break the ground, for ſearching or boring, and for ſinks and levels, and make highways to and from the coal-heughs, and to build what is needful for the accommodation of the coal-grieves and coal-hewers; for perfecting of which agreement, the ſaid T. H. ſells, annalzies and diſpones to the ſaid J. L. M. his heirs-male and ſucceſſors, ſucceeding to him in his dignity and eſtate,

eſtate, which failing, to his heirs and aſſignees whatſoever, heritably and irredeemably, all and haill the town and lands of L. the lands of Eaſter and Weſter H. with houſes, biggings, yards, parts, pendicles, and pertinents thereof, lying within the pariſh of T. and ſheriffdom of P. together with all right, title, intereſt and claim of right that the ſaid T. H. had, has, or any ways may claim or pretend thereto, or any part thereof, in time coming; reſerving nevertheleſs, to the ſaid T. H. himſelf, the equal half of the haill coal that ſhall be found within the ſaid lands hereby diſponed by him, under the quality and exception after mentioned; likeas the ſaid T. H. binds and obliges him, his heirs and ſucceſſors, with all convenient diligence, to duly and lawfully infeft and ſeiſe the ſaid J. L. M. and his foreſaids, in the lands above diſponed, with the pertinents thereof, under the reſervation above ſpecified, and that by two ſeveral infeftments, in due and competent form, the one thereof to be holden of the ſaid T. H. and his heirs, in free blench, for payment of a penny Scots at Whitſunday yearly, if it be aſked, and relieving him of the duties payable forth thereof, to his immediate ſuperiors of the ſame; and the other of the ſaid infeftments to be holden from the ſaid T. H. and his foreſaids, immediate ſuperiors of the ſame, preſently being, or that ſhall happen to be for the time, ſicklike and as freely in all reſpects, as he holds, or may hold the ſame himſelf, either by reſignation or confirmation, as beſt ſhall pleaſe the ſaid J. L. M. and his foreſaids, the one of the ſaid infeftments being no ways prejudicial to the other, and the ſame being always purchaſed, procured, paſſed and expede by the ſaid J. L. M. and his foreſaids, by their own moyen, and upon their own proper charges and expences; and for that effect, ſhall grant, ſeal, ſubſcribe and deliver to them ſufficient charters, containing precepts of ſeiſin, procuratories of reſignation, and all other writs and ſecurities neceſſary, in due and competent form; and for obtaining the foreſaid infeftment by reſignation, the ſaid T. H. by theſe preſents, makes and conſtitutes _____ and each one of them, conjunctly and ſeverally, his very lawful and irrevocable procurators for him, and in his name, to reſign, ſurrender, overgive and deliver, as he, by theſe preſents, reſigns, ſurrenders, overgives and delivers, all and haill the foreſaid town and lands of L. and the lands of Eaſter and Weſter H. with houſes, biggings, yards, parts, pendicles and pertinents thereof, lying as ſaid is, together with all right, title, intereſt, and claim of right that the ſaid T. H. had, has, or any ways may claim or pretend thereto, or any part thereof, in time coming, under the quality and exception always above and after ſpecified, in the hands of the ſaid T. H. his immediate ſuperior or ſuperiors thereof, preſently being, or that ſhall happen to be for the time, or of his or their commiſſioners, having power to receive reſignations, in his or their names, in favours and for new infeftment of the ſame, to be made and granted to the ſaid J. L. M. and his foreſaids, heritably and irredeemably, under the reſervation and exception always above and after ſpecified, and thereupon acts, inſtruments, and documents needful, to aſk, lift, and raiſe, and generally all and ſundry other things anent the premiſſes, to do, uſe and exerce, which to the office of procuratory, in ſuch caſes, by the law and cuſtom of this realm, is known to appertain, and which the ſaid

T. H. might do himſelf, if he were perſonally preſent; promiſing to hold firm and ſtable all and whatſoever things that his ſaid procurators, or any of them, in the premiſſes, lawfully do, or cauſe to be done, but revocation; which alienation, diſpoſition, reſignation, infeftments, lands, and others above ſpecified, to be contained therein, the ſaid T. H. binds and obliges him, his heirs and ſucceſſors foreſaid, to warrant to the ſaid J. L. M. and his foreſaids, from all wards, reliefs, marriages, non-entries, ladies terces, conjunct fees, liferents, annualrents, other alienations, publick and private ſeiſins, tacks, aſſedations, long and ſhort rentals, eſcheats, forfeitures, purpreſtures, diſclamations, baſtardies, reverſions, redemptions, inhibitions, interdictions, evictions, recognitions, appriſings, adjudications, nullities, and from all other perils, dangers, incumbrances and inconveniencies whatſoever, as well not named as named, bygone, preſent as to come, at all hands, and againſt all deadly, as law will. And farther, the ſaid T. H. makes and conſtitutes the ſaid J. L. M. and his foreſaids, his undoubted and irrevocable ceſſioners and aſſignees, not only in and to the haill charters, precepts and inſtruments of ſeiſin, procuratories and inſtruments of reſignation, confirmations, tacks, aſſedations, prorogations, valuations, aſſignations, tranſlations, diſpoſitions, and all other rights and ſecurities whatſoever, made and granted to him, his predeceſſors and authors of the lands and others above diſponed, and teinds thereof, parſonage and vicarage, or annuities of the ſaid teinds, with the burden always of the ſum of ——— yearly, to the ſchoolmaſter of the ſaid pariſh, and of —— yearly, to the miniſter ſerving the cure thereat, and of the ſum of ——— of teind-duty, which was formerly payable to the biſhop of Dunkeld, and now to theſe having right thereto, during the years of the preſent tack yet to run, and to the clauſes of warrandice, and haill remanent clauſes and obligements contained therein, conceived, or that may be interpreted in his favours, and that in ſo far only as the ſaid writs may be extended to the lands above diſponed, for the crop and year of God ——, and in all time thereafter, and in ſo far as concerns the ſaid teinds, with the burden above mentioned, for the ſame year ———, and thereafter during the continuance of the rights of the ſaid teinds, together with the ſaid T. H. his right and poſſeſſion of the ſame teinds for ever, and no farther, but alſo in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the lands and others above rehearſed, for the crop and year of God —— and in all time thereafter; which aſſignations the ſaid T. H. binds and obliges him, and his foreſaids, to warrant to the ſaid noble L. and his above ſpecified, from all facts and deeds done, and to be done by him and his foreſaids, prejudicial hereto allenarly, but prejudice of the abſolute warrandice above written: And in like manner, the ſaid T. H. binds and obliges him and his foreſaids, to free, relieve, and ſkaithleſs keep the ſaid J. L. M. and his foreſaids, of all ceſs, taxations, miniſters, readers and ſchoolmaſters ſtipends, blench-duties, and other burdens due and payable forth of, and for the lands and others above diſponed, and teinds thereof, preceding the term of Whitſunday in the year ——— and of all coſt, ſkaith, damage, expences and intereſt that the ſaid noble L. or his foreſaids, ſhall happen to ſuſtain or incur therethrough in any ſort: And for the preventing of

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any differences that may arise, anent what proportion of publick burden shall be payable out of the lands above disponed after Whitsunday next, it is agreed betwixt the said parties, when they have considered the rental thereof, with the rent of the other lands that are valued therewith, that the foresaid lands of L. and Easter and Wester H. shall pay publick burdens, according to —— of valued rent, in all time coming after Whitsunday next. And to the effect the said J. L. M. may be presently infeft in the lands and others above disponed, the said T. H. by these presents, desires and requires you —— and each one of you, conjunctly and severally, his baillies in that part, to the effect after specified, specially constitute, that immediately after sight hereof, ye pass and give heritable state and seisin, with possession corporal, actual and real, of all and haill the foresaid town and lands of L. the said lands of Easter and Wester H. with houses, biggings, yards, parts, pendicles, and pertinents thereof, lying as said is, to the said J. L. M. or to his certain attorney in his name, bearer hereof, by deliverance of earth and stone of the grovnd of the foresaid lands, as use is in the like, conform to these presents, and infeftments appointed to follow thereupon, or either of them, and to be holden of the said T. H. or from him of his immediate superiors, in manner above expressed, under the reservation and exception above mentioned, and that this on no ways ye leave undone; the which to do, the said T. H. commits to you, conjunctly and severally, his baillies in that part foresaid, his full power, by these presents: And on the other part, the said J. L. M. hath presently made payment to the said T. H. of the sum of —— Scots money, as a part of the onerous cause of the right hereby granted of the lands and others above disponed, whereof the said T. H. grants the receipt, and exoners, quit-claims, and *simpliciter* discharges the said noble L. his heirs and executors of the same, renouncing all exceptions in the contrary for ever, reserving to the said T. H. his heirs and assignees, the equal half of the haill coal that shall be found within the foresaid lands of L. and Easter and Wester H. with the pertinents thereof, under the exception after specified, and quality under written. And farther, the said J. L. M. by these presents, sells and disponeth to the said T. H. his heirs and assignees whatsoever, succeeding to him in his estate of B. heritably, the just and equal half of all and haill the coal within the said noble L. his lands and barony of H. belonging to the said noble L. in property, upon the south side of the water of A. lying within the sheriffdom of P. with power to the said T. H. to break ground, bore and set down sinks, cast and draw levels, and to make use otherways of the ground, for trying to find out, and for the winning of the said coals, and for making high-ways and passages to and from the same, and to build houses thereupon for accommodating the coal-grieve or coal-heughers, as other masters are in use to do, under the provisions, conditions, and exceptions always after mentioned, *viz.* Excepting always the house of H. with the office-houses, close, court and gardens, and orchards belonging thereto, lying about the same, being within the distance of —— ells to the principal house, wherein it shall not be lawful to the said B. or his foresaids to dig or break ground, nor in the high-ways leading thereunto, that are near the same, within

the foreſaid diſtance; declaring nevertheleſs, that the parks of H. are not to be included in this exception, but left free to be wrought, and the ground broken, and coal win therein. And alſo declaring, that if the ſaid J. L. M. himſelf, or his heirs or ſucceſſors, ſhall ſet down and find coal within the ſaid excepted ground, the equal half thereof ſhall belong to the ſaid T. H. and his foreſaids, conform to this agreement; under this expreſs proviſion, that in caſe there ſhall be no coal found which may be wrought within the ſaid barony of H. during the ſpace of ——— years after the date of this preſent contract, or during the ſaid T. H. his lifetime, (if he ſhall outlive theſe years), in that caſe, this preſent right, granted to the ſaid T. H. of the half of the foreſaid coal, within the barony of H. and the half of the coal reſerved of the lands of L. and Eaſter and Weſter H. ſhall from thenceforth expire, and become void and null, as if the ſame had never been granted; and a diſcharge and renunciation of the foreſaid half of the coal, to be granted by the ſaid T. H. or his heirs, ſhall be ſufficient for extinguiſhing their right to the ſame, in the caſe before mentioned; likeas the ſaid J. L. M. binds and obliges him, his heirs and ſucceſſors, with all convenient diligence, to duly and lawfully infeft and ſeiſe the ſaid T. H. and his heirs-male and of tailzie ſucceeding to him in his eſtate of B. which failing, his heirs and aſſignees whatſoever, heritably, under the proviſion, quality and exception above and after mentioned, in the equal half of the haill coal, lying within the ſaid noble L. his barony of B. upon the ſouth ſide of the water of A. and in the privileges above mentioned, relative thereto, and that by two ſeveral infeſtments, in due and competent form, the one thereof to be holden of the ſaid J. L. M. and his foreſaids, in free blench, for payment yearly of —— penny Scots money at the feaſt of Whitſunday, upon the ground of the ſaid lands, in name of blench-farm, if it be aſked, and relieving the ſaid noble L. of the duties payable forth of the ſaid coal to his immediate ſuperiors of the ſame, and the other of the foreſaid infeftments to be holden from the ſaid J. L. M. and his above ſpecified, of his ſaid immediate ſuperiors, preſently being, or that ſhall happen to be for the time, either by reſignation or confirmation, as beſt ſhall pleaſe the ſaid T. H. and his foreſaids; and for that effect, ſhall make, grant, ſeal, ſubſcribe and deliver to him ſufficient charters, containing precepts of ſeiſin, procuratories of reſignation, and all other writs and ſecurities neceſſary, in due and competent form, the one of the ſaid infeftments being no ways prejudicial to the other, and the ſame being always expede by the ſaid T. H. and his foreſaids, by their moyen, and upon their own proper charges and expences; and for effectuating the foreſaid infeftment by reſignation, the ſaid J. L. M. by theſe preſents, makes and conſtitutes ——— and each one of them, conjunctly and ſeverally, his very lawful and irrevocable procurators for him, and in his name, to reſign, ſurrender, overgive and deliver, as he, by theſe preſents, reſigns, ſurrenders, overgives and delivers, the juſt and equal half of all and haill the coal within the ſaid noble L. his lands and barony of H. upon the ſouth ſide of the water of A. with full power to the ſaid T. H. and his foreſaids, to break down ground, and ſet down ſinks, caſt and draw levels, and to make uſe otherways of the ground for diſcovery

very and winning of the ſaid coal, and for making high-ways and paſſages to and from the ſame, and to build houſes thereupon for accommodating the coal-grieve or coal-heughers, or bearers, as other coal-maſters are in uſe to do, under the proviſions and conditions after mentioned, and exception above ſpecified, in the hands of the ſaid J. L. M. his immediate lawful ſuperior, or ſuperiors of the ſaid lands and coal, preſently being, or that ſhall happen to be for the time, or of his or their commiſſioners, having power to receive reſignations in his or their names, in favours and for new infeftment of the ſame, to be made and granted to the ſaid T. H. and his foreſaids, heritably; under this expreſs proviſion and quality, that in caſe there ſhall be no coal found, which may be wrought within the ſaid barony of A. during the ſpace of ——— years after the date of this preſent contract, or during the ſaid T. H. his lifetime (if he ſhall outlive theſe years), in that caſe, this preſent right, granted to the ſaid T. H. of B. of the half of the foreſaid coal within the barony of H. and the half of the coal reſerved of the lands of L. and Eaſter and Weſter H. ſhall from thenceforth expire, and become void and null, as if the ſame had never been granted; and thereupon acts, inſtruments and documents needful to aſk, lift and raiſe, and generally all and ſundry other things anent the premiſſes to do, uſe and exerce, which to the office of procuratory, in ſuch caſes, by the law and cuſtom of this realm, is known to appertain, and which he might do himſelf, if he were perſonally preſent, and which the ſaid J. L. M. promiſes to hold firm and ſtable; which alienation, diſpoſition, infeftment and equal half of the coal above ſpecified to be contained therein, the ſaid J. L. M. binds and obliges him and his foreſaids, to warrant to the ſaid T. H. and his foreſaids, from all perils, dangers, incumbrances and inconveniencies whatſoever, as well not named as named, bygone, preſent as to come, at all hands, and againſt all deadly, as law will. And further, the ſaid J. L. M. by theſe preſents, makes and conſtitutes the ſaid T. H. and his foreſaids, his undoubted and irrevocable ceſſioners and aſſignees, not only in and to the haill writs and evidents of the foreſaid lands and barony made in favours of him, his predeceſſors and authors, and to the clauſes of warrandice, and haill remanent clauſes and obligements contained therein, conceived, or that may be interpreted in his favours, and that in ſo far only as the ſaid writs may be extended to the equal half of the ſaid coal, with the privileges above ſpecified, hereby diſponed, but alſo in and to the equal half of the ſaid coal itſelf, and profits thereof from the time that it ſhall be recovered, and in all time thereafter; which aſſignations the ſaid J. L. M. binds and obliges him and his foreſaids, to warrant to the ſaid T. H. and his above ſpecified, from the ſaid noble L. and his foreſaids their facts and deeds done, and to be done prejudicial hereto allenarly, but prejudice of the abſolute warrandice above written. And farther, it is agreed betwixt the ſaid parties, that the ſaid J. L. M. and T. H. of B. ſhall each of them advance the ſum of ——— Scots money, for ſearching and finding out of the ſaid coal; and ſo ſoon as either of the parties begins to ſearch, the other is to advance to him his part of the ſaid ſum, providing always, that there ſhall not be more than the ſum of ——— of advance demanded at one time. And it is farther agreed,

that

that after the ſaid haill ——— is expended, that yet, nevertheleſs, any one of the ſaid parties, or their foreſaids, may thereafter ſearch for the coal by themſelves, and upon their own expences; and if coal ſhall be found upon any ſuch ſearch, the party finder thereof is to admit the other party to be equal ſharer with him in all the profit that ſhall thereby ariſe, upon payment of half of the expences that ſhall happen to be beſtowed in finding out the coal; which expences are to be given up, upon word of honour, by the party deburſer thereof, without any further probation; and to the effect the ſaid T. H. may be preſently infeft in the equal half of the coal above mentioned, with the privileges above expreſſed, the ſaid J. L. M. by theſe preſents, deſires and requires you ——— and each one of you, conjunctly and ſeverally, his baillies in that part, to the effect after ſpecified, ſpecially conſtitute, that immediately after ſight hereof, ye paſs and give heritable ſtate and ſeiſin, with poſſeſſion corporal, actual and real of the foreſaid juſt and equal half of all and haill the coal within the ſaid noble L. his lands and barony of H. upon the ſouth ſide of the water of A. with full power to the ſaid T. H. and his foreſaids, to break ground, bore and ſet down ſinks, caſt and draw levels, and to make uſe otherways of the ground for the winning of the ſaid coal, and for making high-ways and paſſages to and from the ſame, and to build houſes thereupon, for accommodating the coal-grieve and coal-bearers, as other coal maſters are in uſe to do, to the ſaid T. H. or his certain attorney in his name, bearer hereof, by deliverance of earth and ſtone of the ground of the foreſaid lands, and a piece of coal, as uſe is in the like, conform to theſe preſents, and infeftments appointed to follow hereupon, or either of them, and that this on no ways ye leave undone; the which to do, the ſaid J. L. M. commits to you, conjunctly and ſeverally, his baillies in that part foreſaid, his full power, by theſe preſents, under the proviſion, condition and exception always above ſpecified, which is here holden as repeated *brevitatis cauſa*, and ſhall be contained in the infeftments to follow hereupon. And in like manner, the ſaid J. L. M. binds and obliges him, and his foreſaids, to cauſe the ſaid L. K. M. his ſpouſe, and the ſaid T. H. binds and obliges him, and his foreſaids, to cauſe the ſaid M. M. D. his ſpouſe, ratify theſe preſents before a judge-ordinary, and that outhwith the preſence of their ſaid huſbands, and declare judicially upon oath, that they do the ſame willingly of their own accord, and that they ſhall not quarrel nor impugn the premiſſes, nor come in the contrary thereof, directly or indirectly, by any manner of way, in time coming. And, *laſtly*, It is agreed betwixt the ſaid parties, that neither of them ſhall be obliged to give to the other any progreſs of the writs of the lands, or coal that is hereby diſponed, except only, that if either of them intend to expede a publick infeftment, the other party ſhall furniſh him with a charter, to inſtruct the manner of holding of what is hereby diſponed, clauſe of regiſtration, and precept of ſeiſin, *&c.*

The next ſubject-matter I reſolve to fall upon, is a bargain betwixt a gentleman who is in debt, and who, by a forehand bargain of victual, ſalmon, and the like, reſolves to borrow a ſtock of money, in order to pay his debt; and chuſes rather to loſe a little, and probably

bly, and as matters and prices fall not, and live *in pace*, than be expoſed to legal diligence, yea, the expiration of legal reverſions themſelves, on the one part, and ſome merchant adventurers on the other part. And as I drew the contract myſelf, ſo I will be curt in the narrative, conſiſting of all the debts the gentleman owed, appriſings led thereupon, his ſingle and liferent eſcheat taken, conventional rights and infeftments, pounding of the ground, and what other diligence enſued, a minute of agreement that previouſly paſſed betwixt the parties, in relation to their intended bargain, and ſhall only fall upon the ſubſumption and concluſion; and I muſt ſay, that as the gentleman was in neceſſity, the merchants were generous, and took no advantage upon that head of him, but advanced their money *ab ante*, following the faith of the minute; and by which advance, the gentleman (of an ancient family, and true honour) had, upon preſent payment, great favour from his creditors, and ſo a good bargain for all concerned. And as I wrote the contract, I outlived the performance.

CONTRACT *betwixt* D. R. *of* B. *on the one part, and* W. D. *elder, Baillie of* J. W. D. *younger, Merchant there,* J. F. *of* C. *alſo Merchant Burgeſs of the ſaid Burgh of* J. *on the other Part, anent a forehand Bargain of Victual and Salmon,* &c. *worthy of Obſervation.*

AT —— the —— day of —— 17— years, It is appointed, contracted, finally agreed and ended betwixt the parties following: They are to ſay, D. R. of B. on the one part, and W. D. elder, baillie of J. and W. D. younger, merchant there, and J. F. of C. alſo merchant burgeſs of the ſaid burgh of J. on the other part, in manner following: That is to ſay, foraſmuch as the ſaid D. R. (*here were all the debts he owed, to whom, and all the real and perſonal diligence that thereupon enſued, and the conventional rights, whether by appriſings, infeftments of annualrent, and decreets of pounding the ground following thereupon, ſingle and liferent eſcheats, or otherways, and minute of agreement paſſed betwixt the ſaid parties, by which the merchants were bound to pay the debts due by the ſaid D. R. of B. to his creditors, not exceeding the ſum therein ſpecified, and to acquire the ſeveral rights, upon payment in their own perſons; and the ſaid D. R. of B. obliged him to make the bargain of victual and ſalmon after mentioned, and the merchants, for implement of their part, paid the debts, or ſecured therefor, as tranſacted by the gentleman himſelf, and procured rights thereof in their own perſons, as the ſaid articles of agreement, rights and diſpoſitions above ſpecified, in themſelves more fully is expreſſed; and then it was thus ſubſumed,*) As alſo, the ſaid W. D. elder and and younger, (*for it ſeems they were the two merchants that entered in the minute with the gentleman*) conſidering of their advance aforeſaid to the ſaid J. S. who was one of the creditors of the gentleman, and his tutor, and other advancements after ſpecified, they judged it convenient and neceſſary to have a third partner joined with them in the bargain after mentioned, and having dealt with the ſaid J. F. he was content, and *de facto* became copartner with them therein, as to all advances, loſs and gain, and accordingly, the ſaid W. D. elder and younger, upon the ſaid J. his advance of a third part of the ſums paid to R. H. as tutor foreſaid, and of the ſums after ſpecified, advanced by them to (*here the perſons and their reſpective*

tive debts due to them, were particularly insert, and then) likeas the said three co-partners are obliged to the debts resting by the said D. R. of B. to the persons after named, *viz.* (*here the persons and debts were insert, and then the stile of the contract follows*) and seeing the said W. D. elder and younger, and J. F. have not only faithfully performed their part of the said articles of agreement, in advancing the said sum of —— to the said tutor, for the behoof of his said pupil. with the sum of —— more for completing the said sum of —— money foresaid, paid for the said rights to the said R. H. which was the most considerable debt, and that they have, out of kindness and respect to the said D. R. of B. allowed himself to repay to them the said sum of —— advanced to the said R. H. over and above the said sum of —— money foresaid, and besides, have satisfied the said J. B. of E. and K. M. of S. of the particular sums of money above mentioned, resting to them by the said D. R. as said is, towards the acquiring of the said M. R. P. his gift of liserent escheat from the said B. of R. as also, are to advance and pay the sum of (*here some other debts were insert, payable to other persons, due by the said D. R. and then follows*) and it being just and reasonable, that the said W. D. elder and younger, and J. F. be fully secured as to the effectual performance of the said articles, and for getting payment of the said sum of ——, being the sum paid to the said R. H. as tutor foresaid, and interest thereof, with the other sums above expressed, advanced to the said J. B. of E. and K. M. and other sums above written, to be advanced by them to the said A. D. *&c.* extending in the haill, of principal sums, attour annualrents, to the sum of ——, and that by the said bargain, and in the way and manner prescribed in the said articles of agreement, and likeways sufficiently warranted and secured against all incumbrances on the said estate, by inhibitions, apprisings, infeftments or otherways; and namely, but prejudice of the said generality, against the said D. R. his lady, her liferent of —— chalders victual, for which she stands infeft, payable out of the barony of —— and others, in case she survive her said husband, and that he decease before the said bargain be fully cleared and satisfied, and all other things prestable by this present contract accordingly done and performed; and likeways, the said W. D. elder and younger, and J. F. and their foresaids, reimbursed not only of their advancements to and for the said D. R. but also satisfied and paid of what sums of money they shall be forced to advance, in acquiring any rights or incumbrances upon his estate, that may prove derogatory to their said bargain, and payment and relief of their said advancements, with interest after advancement, and during the not payment, and what damage and interest they may sustain by and through the said incumbrances, and in the defence or pursuit of the said bargain and advancements; therefore, and but any hurt, prejudice, or derogation to the foresaid heritable bond and right of annualrent, * disposition made by the said G. S. to the said deceased J. S. his son thereof, or to the foresaid single and liferent escheats procured from his Majesty in exchequer, or to the foresaid apprising, or grounds thereof, decreets of poinding of the ground, declarators, and mails and duties following thereupon, and other execution and diligences that have ensued on the said bonds and rights, or yet to the foresaid gift of liferent escheat, procured from the said late B. of R. and decreets of declarator, and

* *Nota*, This for the great debt.

and others following thereupon, and aſſignations, diſpoſitions, and rights made to the ſaid W. D. elder and younger, and their foreſaids, of all, or either of them, in manner above narrated, or by them to the ſaid J. F. as to a third part of the ſame, or yet to the ſaid articles of agreement, or what laſt further agreed to, ſince the ſaid articles betwixt the ſaid parties, in order to the ſaid W. D. elder and younger, and J. F. their further ſecurity anent the ſaid bargain, not only for the ſaid ſums advanced to the ſaid J. S. his tutor, but alſo for the other ſums paid and to be paid, and advanced in manner foreſaid, and againſt all incumbrances, and their payment of their advancements, as ſaid is, or innovation of all or either of the ſaid rights in any ſort; but in farther corroboration of the ſame, *accumulando jura juribus*, the ſaid D. R. with conſent of ———, for all right they, or either of them, either for themſelves, or as deriving right from any other perſon or perſons, have or can pretend, by inhibitions, appriſings, infeftments, or otherways, to the lands, baronies, mills, mill-lands, teinds, fiſhings, as well ſalmon as other fiſhings, and others above and after mentioned, with the pertinents, has ratified and approven, and by theſe preſents, ratifies, homologates, and approves the foreſaid heritable bond and right of annualrent, (*here all the rights, both of annualrent and infeftments thereon, with other perſonal bonds, inhibitions, and diligence thereon, appriſings, eſcheats ſingle and liferent, granted by the king, and liferent eſcheat granted by the B. of R. and declarators thereon, and rights made by the creditors to the ſaid merchants, and by them to one another, are curtly deduced, but more fully narrated; and then the draught bears*) with all that has followed, or may follow thereupon, in the haill heads, articles, clauſes, proviſions and conditions therein contained, and admits and declares the generality foreſaid of the ſaid ratification, to be as valid, effectual and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, to the ſaid W. D. elder and younger, and J. F. and their foreſaids, as if the ſaid bonds, infeftments, diſpoſitions, aſſignations, appriſings, gifts of eſcheat, decreets, and other rights and diligences generally above narrated, were, *de verbo in verbum*, herein inſert, and at length ingroſſed, albeit the ſame be not ſo done; whereanent, and with all informalities, nullities and imperfections, if any be, in the ſaid bonds, infeftments, appriſings, executions, diligences, gifts, decreets, and rights above narrated, or one or other of them, and all actions of reduction, declarators of nullity, yea, improbations themſelves, and all other action, purſuit and inſtance of the law competent to the ſaid D. R. or to his heirs, executors or ſucceſſors againſt the ſame, the ſaid D. R. for him and his foreſaids, with conſent above ſpecified, has diſpenſed, and by theſe preſents, diſpenſes for ever; and faithfully acknowledges all the ſaid diligences and appriſings to be truly and really done, and legally executed and deduced, and that the ſums for which the ſaid appriſings were led, was a juſt and true debt, truly reſting owing; and renounces, quit-claims, and for ever diſcharges all exceptions and objections, actions and inſtances competent, or that may be competent to him or his foreſaids in the contrary, and that to and in favours of the ſaid W. D. elder and younger, and J. F. and their foreſaids, alſo for ever; and likeways declares, that the production of the ſaid decreets of appriſing in all actions, yea, improbations themſelves, ſhall be ſufficient for ſatisfying the production, without any neceſſity of production of any of the bonds, or other

grounds thereof, or yet of the ſaid letters of horning, ſpecial charge, letters of appriſing, or executions of all or either of them, notwithſtanding that, *caſu fortuito*, they may be loſt, or otherways deſtroyed; with which likeways the ſaid D. R. with conſent foreſaid, has diſpenſed, and for him and his foreſaids, by theſe preſents, alſo diſpenſes for ever; and that in ſo far allenarly as concerns, and may be extended to the ſaid ſum of —— now only advanced by them, at leaſt, reſting to them of the foreſaid ſum of —— money above written, paid to the ſaid R. H. as tutor foreſaid, in manner above expreſſed, and the annualrent thereof ſince Whitſunday laſt, and in time coming, and as may be extended to the foreſaid principal ſums advanced and to be advanced by them to the ſaid J. B. of E. K. M. A. D. and their hūſbands, and M. C. R. in manner foreſaid, with the annualrent thereof above ſpecified, extending the haill principal ſums, in manner above rehearſed, and ay and while both principal ſums and the annualrent be ſatisfied and paid by the ſaid bargain of victual and fiſhing ſpecified in the ſaid articles of agreement, in manner, at the rates, by the manner of counting therein mentioned, and with the liquidate failzies therein expreſſed, and in ſo far alſo as concerns, and may be extended to a full ſecurity to them, as to the effectual performance of the ſaid articles of agreement, and preſent additional bargain and advancements, in all the heads, articles and circumſtances thereof, conform to the tenor of the ſame in all points; and in like manner, in ſo far as concerns, and may be extended to their payment of all their other advancements for the ſaid D. R. either bygone, preſent or future, and to their repayment of all incumbrances on the ſaid eſtate, that may prove derogatory and prejudicial to the ſaid bargain and payments, and which they ſhall be forced to purge and acquire for the more peaceable enjoyment and poſſeſſion of the ſaid bargain, and benefit thereof, and as may be extended to any intereſt, damage or prejudice they may ſuſtain and incur, by or through the ſaid incumbrances, or in purſuit or defence of their ſaid bargain, and making the ſame, with their payments, effectual, and no farther; but no ways that they ſhall take, or make uſe of any legal advantage, by the expiration of the legal reverſion of the ſaid appriſings, or yet by the ſaid eſcheats, ſingle and liferent, farther than their ſecurity of the ſaid bargain, and their payment of their ſaid advancements for the ſaid D. R. and purging of the ſaid incumbrances and purſuit, and defence of their bargain and rights, and what relates thereto, in manner above rehearſed. And farther, the ſaid D. R. of B. for the ſaid W. D. elder and younger, and J. F. their better ſecurity, and more ſure performance of the ſaid articles and additional bargain and advancements, and liberation of, and immunity from all incumbrances, as ſaid is, by theſe preſents, with conſent foreſaid, ſells and diſpones to the ſaid W. D. elder and younger, and J. F. *pro indiviſo*, and to their heirs and aſſignees, all and haill the number and quantity of 300 bolls good and ſufficient bear, merchant ware, and with the meaſure of counting the boll at —— merks, *communibus annis*, as ſaid is, and the number of twenty-four barrels good and ſufficient clear well-ſalted ſalmon; and wherein theſe are defective, the number of ſix barrels clear ſalted griſes, good and ſufficient, for each four barrels of ſalmon, counting the barrel of ſalmon at —— pounds Scots, and each barrel griſes at —— pounds Scots; and

all

all of the product and excreſce of the ſaid D. his land, waters and eſtate in R. and obliges him, his heirs, executors, and ſucceſſors, to pay and deliver the ſaid victual and fiſhing yearly, to the ſaid W. D. elder and younger, J. F. and their foreſaids, betwixt the firſt day of March, and the firſt day of May yearly, as to the victual, and betwixt the firſt and laſt days of Auguſt yearly, as to the ſaid fiſhes; beginning the victual payment of the crop —— years inſtant, and the ſalmon and grilſes fiſhing of the year and ſeaſon ——, and ſo forth, to continue at the rate and price foreſaid, from year to year, ay and while the ſaid —— merks, and ſums advanced and to be advanced to the ſaid J. B. of E. K. M. A. D. and M. R. F. her huſband, and to the ſaid A. D. and M. C. R. extending in the haill to the ſaid ſum of —— money foreſaid, with the annualrent thereof from the term of Whitſunday laſt, and during the not payment, be ſatisfied and paid, in and by the ſaid bargain, and manner of counting ſpecified in the ſaid articles of agreement; and which victual, the ſaid D. R. obliges him and his foreſaids, to deliver with the meaſure L. yearly, and to tranſport the ſame in his own ſacks, and on his own charges and expences, to the ſaid W. D. elder and younger, and J. F. and their foreſaids their bark or boat ſides, lying at A. Neſs, and on N. ſands, and likeways to tranſport the ſaid barrels of ſalmon and grilſes to their bark or boat ſides, lying at B. Neſs; and failing of payment of the ſaid bolls yearly, the ſaid D. R. obliges him and his foreſaids, to pay to them and their foreſaids, the ſum of —— pounds Scots, for each undelivered boll, and that upon the firſt day of November yearly, after the ſaid time appointed for delivery of the ſame, and annualrent thereafter, during the not payment thereof; and failing of payment of the ſaid barrels of ſalmon or grilſes, at the extent foreſaid, the ſaid D. R. binds and obliges him and his foreſaids, to pay to the ſaid W. D. elder and younger, and J. F. and their foreſaids, the ſum of —— pounds for each undelivered barrel, and that upon the firſt day of November next and immediately following the ſaid time of delivery, and annualrent of the ſaid prices, or liquidate failzies during the not payment after the ſaid term, and the ſaid D. R. and his foreſaids, to count and diſcount with the ſaid W. D. elder and younger, and J. F. and their foreſaids, upon what paid and delivered of the ſaid victual and fiſhing yearly, in the way, method, at the rates, and in manner ſpecified in the ſaid articles of agreement, and at the terms therein expreſſed; and in like manner, the ſaid D. R. with conſent foreſaid, by theſe preſents, ſells and diſpones to the ſaid W. D. elder and younger, and J. F. and their foreſaids, what further victual and ſalmon or grilſes the ſaid D. ſhall have, and that his ſaid eſtate will yearly yield to him, attour the ſaid yearly bargain, which he now calls an hundred bolls bear, and twenty barrels ſalmon and grilſes, and that at —— merks the boll, and —— pounds Scots money for each barrel of ſalmon, and —— pounds for each barrel of grilſes, and that yearly, during the ſpace of the ſaid bargain; and oblige him and his foreſaids, to deliver the ſame to them at the rates foreſaid, in manner, of the crops and years, and at the terms, times and places above rehearſed; and faithfully promiſes, binds and obliges him and his foreſaids, not to put away, ſell the ſame, or to diſpoſe thereof by them; and failing thereof, to pay to them the like failzies, as that of the ſaid bargain, for each boll and barrel

that he ſhall ſell, put away, and diſpoſe of by them, at the terms and times of payment of the ſaid other failzies; and what is paid that way, over and above the ſaid bargain, the ſame, at the ſaid rates of —— *per* boll, and —— pounds Scots for each barrel of ſalmon, and —— pounds for each barrel griliſes, is to be allowed and diſcounted alſo, off, and in the firſt end of the ſaid —— merks, and other ſums advanced and to be advanced by them for the ſaid D. R. as ſaid is, extending in manner foreſaid, and its annualrents, after the method of counting above written, or otherways; and in the ſaid W. D. elder and younger, and J. F. and their foreſaids, their option and election, it ſhall be lawful to them, and in their power, to employ and apply the ſaid rates and prices, for their own payment of their advancements for the ſaid D. R. either bygone, preſent, or to come; and which laſt paction, agreement and condeſcendence ſhall hold, endure and continue to the end of the ſaid bargain, and ay and while complete payment be made of the ſaid haill principal ſum of —— merks, and other ſums advanced and to be advanced by them for the ſaid D. R. extending in manner foreſaid, and its annualrents, and of what they ſhall furniſh in ſalt to the ſaid D. R. for curing and ſalting the ſaid ſalmon and griliſes yearly, at the country price, in caſe the ſaid ſalt be not paid for by the ſaid D. himſelf in money, or otherways diſcounted and allowed by him to them, in the firſt end of the price of the victual and fiſhing, poſitively obliged to in the ſaid bargain; but in caſe the ſaid D. R. ſhall not put away, or diſpoſe of any ſuperplus his eſtate ſhall yield in victual or fiſhing, attour the ſaid bargain, but make uſe thereof for his family yearly; then, and in that caſe, he ſhall be liberate of, and free from payment of any failzies for the ſaid victual and fiſhing, that the ſaid eſtate ſhall yield over and above the ſaid bargain, and that theſe years the ſaid ſuperplus ſhall be made uſe of, and conſumed in his family, as ſaid is: And for the ſaid W. D. elder and younger, and J. F. and their foreſaids, their farther ſecurity anent the ſaid bargain, and its being effectual to them, and for their payment of their ſaid advancements, and better ſecurity againſt all incumbrances upon the ſaid eſtate, that may prove derogatory and prejudicial to them in that behalf, or yet as to what farther the ſaid eſtate may yield yearly, over and above the ſaid bargain, and during the ſpace of its continuance, without the ſaid overplus be conſumed and ſpent in family, as ſaid is, the ſaid D. R. with conſent foreſaid, and but any hurt, prejudice, or derogation to the former rights above narrated, ratification aforeſaid, or innovation thereof in any ſort, but in farther corroboration of the ſame, *accumulando jura juribus*, binds and obliges him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid W. D. elder and younger, and J. F. and their foreſaids, in all and haill the ſaid D. R. his lands, baronies, mills, mill-lands, and others above and after ſpecified, *viz.* (*here the lands, and in effect all his eſtate were inſert, of the particular names and deſignations contained in his charters under the great ſeal, and from the B. of R. and other ſuperiors; and then the general clauſe moſt ample, thus*:) with the haill manor-places, caſtles, towers, fortalices, houſes, biggings, yards, orchards, mills, as well ſaw-mills, wauk mills, as corn-mills, multures, ſucken, ſequels, and knaveſhip of the ſaid corn-mills, moſſes, muirs, mariſhes, meadows, graſs and paſturages, woods, fiſhings, as well ſalmon as other fiſhings,

ings, and as well in freſh as ſalt waters, ſhealings, heritable offices of bailliary and mayordom of all the ſaid lands, haill benefit and caſualties thereof, outſets, inſets, annexes, connexes, dependencies, tenants, tenantries, and ſervices of free tenants, advocations, donations and rights of patronages of chaplainries, altarages and prebendaries, ports, havens, harbours, weekly markets, yearly free fairs, tolls, cuſtoms, and caſualties thereof, burghs of barony, parts, pendicles, and univerſal privileges and pertinents of the haill foreſaid lands, barony, abbacy, and others particularly and generally above appriſed, or contained in the infeftment of erection of the ſaid barony of B. and as the ſame are denominated, ſet down, and deſigned therein, or that is or ſhall be known any ways to appertain and belong thereto, together with all right, title, intereſt, claim of right, property and poſſeſſion, and right of ſuperiority, reverſions, and others whatſoever, as well not named as named, which the ſaid D. R. and his predeceſſors and ſucceſſors had, have, or any ways may have, claim, or pretend to the ſame, or to the feu-duties, blench-duties, and other duties, benefit and ſervice belonging to the ſaid ſuperiorities, by whatſoever manner of way, in time coming, and that in real warrandice and farther ſecurity to the ſaid W. D. elder and younger, and to the ſaid J. F. and their foreſaids, of the ſaid D. R. and his foreſaids, their effectual performance of the ſaid bargain of 300 bolls bear, counting at —— *per* boll, and —— barrels ſalmon, counting each barrel ſalmon and barrel grilſes, at the reſpective rates above ſpecified, and all of the product and excreſce of the ſaid D. R. his lands, waters and eſtate in R. and for payment and delivery thereof yearly, at the times, places, crops, years and ſeaſons, and with the meaſure above mentioned, ay and while the ſaid ſum of —— merks, and other ſums advanced and to be advanced by them for the ſaid D. R. as ſaid is, and extending in manner above expreſſed, with the annualrent thereof from Whitſunday laſt, during the not payment, be fully and completely paid, in and by the manner of counting above rehearſed, and particularly mentioned, and ſet down in the ſaid articles of agreement; as alſo, in real warrandice and ſecurity of the ſaid D. R. and his foreſaids, their payment and delivery to the ſaid W. D. elder and younger, and J. F. and their foreſaids yearly, during the time of the ſaid bargain, of what farther victual, ſalmon and grilſes the ſaid D. R. ſhall have, and that his eſtate will really yield to him, attour the ſaid yearly bargain, which he now calls towards —— bolls bear, and —— barrels ſalmon, and —— grilſes, and that at the ſame price and rate as that of the ſaid bargain, in manner, at the terms, times, places, and the ſaid victual, with the meaſure above rehearſed; and that he ſhall not put away, or ſell or diſpoſe on the ſaid overplus by them, unleſs he make uſe of, and diſpoſe thereupon for his family, as ſaid is; and likeways in real warrandice and ſecurity of the ſaid D. R. his payment to them of the ſaid liquidate failzies and penalties, for each undelivered boll and barrel of ſalmon or grilſes yearly, at the terms above ſpecified, with annualrent thereafter, during the not payment, conform to the ſaid articles of agreement, and obligement of delivery and payment above expreſſed; and in like manner, in real warrandice and ſecurity to them of all ſums of money the ſaid W. D. elder and younger, and J. F. or their foreſaids, have advanced already, or ſhall happen to advance to, and for him; and laſtly, in

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real warrandice and ſecurity to them of, and againſt all incumbrances on the ſaid eſtate, that may prove derogatory and prejudicial to the ſaid bargain and payments, and which they ſhall be forced to purge and acquire for the more peaceable enjoyment and poſſeſſion of the ſaid bargain, and benefit thereof, and of their repayment of the ſums due by virtue of the rights ſo to be acquired, with what intereſt, damage and prejudice they may ſuſtain and incur, by or through the ſaid incumbrances, or in purſuit or defence of their ſaid bargain, and making the ſame, with their payments and relief, effectual; ſo that if it ſhall happen the ſaid D. R. or his foreſaids, to fail in the performance of the ſaid bargain of —— bolls bear, and —— barrels ſalmon or grilſes, with what farther of victual, ſalmon or grilſes the eſtate ſhall yield, over and above the ſaid bargain, except in the one caſe above ſpecified, of the ſaid ſuperplus being ſpent in the ſaid D. R. his own family, as ſaid is, and that yearly, the crops and years of the ſaid bargain, and of the quality, at the terms, times, places, and with the meaſure above expreſſed, and counting always in manner foreſaid; and notwithſtanding, ſhall not make payment to them of the ſaid liquidate failzies and prices for each undelivered boll and barrel, at the terms above written, and with intereſt thereafter, as above rehearſed, or that the ſaid D. R. or his foreſaids, fail in payment of what they have already advanced, or hereafter ſhall happen to advance, to and for him, or that the ſaid D. R. and his foreſaids, ſhall not repay to them the ſums that they ſhall be forced to advance, for purging of incumbrances that affect the ſaid eſtate, and may diſquiet them in their poſſeſſion and enjoyment of the ſaid bargain, and prejudge them as to their ſaid payment and relief, or yet ſhall not make payment to them of what intereſt, damage and prejudice they ſhall happen to ſuſtain, by or through the ſaid incumbrances, and in defence or purſuit of the ſaid bargain, payments and relief; then, and in either of theſe caſes, the ſaid W. D. elder and younger, and J. F. and their foreſaids, ſhall have full and free regreſs, ingreſs, and acceſs in and to the foreſaid lands, barony, mills, mill-lands, woods, fiſhings, and others particularly and generally above ſpecified, wherein the ſaid D. R. is obliged to infeft them, as ſaid is, and in and to the firſt, beſt, and readieſt of the mails, farms, profits and duties of the ſame, in time coming, at leaſt, in and to ſo much thereof as will correſpond, and will be effeiring to, and ſatisfy and pay the ſaid yearly penalties, and liquidate prices of each undelivered boll and barrel, with the intereſt thereof, after the time appointed for delivery, and during the not payment, and as will ſatisfy and pay them of their ſaid advancements; and likeways, ſatisfy and pay them ſuch ſums of money as they ſhall happen to advance for purging and acquiring ſuch incumbrances as affect the ſaid eſtate, and as may prejudge them as to the poſſeſſion and enjoyment of the ſaid bargain, and benefit thereof, with intereſt after advance, and during the not payment; together with what intereſt, damage and prejudice they ſhall happen to ſuſtain and incur, by or through the ſaid incumbrances, and and in defence or purſuit of their ſaid bargain, payments and relief, and that by double infeftments and manner of holdings, the one thereof to be holden of the ſaid D. R. and his foreſaids, in free blench, for payment of one penny Scots money upon the ground of the ſaid lands, at the feaſt of Whitſunday yearly, in name

of

of blench farm, if it be aſked allenarly, and the other of the ſaid infeftments to be holden from the ſaid D. R. and his foreſaids, of his immediate lawful ſuperiors of the ſame, ſicklike, and as freely in all reſpects, as he holds, or may hold the ſame himſelf, and that by reſignation or confirmation, in their option, the acceptation of the one to be no ways prejudicial to the other; and for that effect, to make, grant, ſubſcribe and deliver to them, diſpoſitions containing procuratories of reſignation, charters containing precepts of ſeiſin, and other ſecurities requiſite and neceſſary thereanent, with warrandice always, in manner under written, beſides the real warrandice above mentioned, and but prejudice thereto, in manner after expreſſed, and all on the ſaid D. R. and his foreſaids, their own proper charges, moyen, and expences; and for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of the other infeftment above written, the ſaid D. R. of B. with conſent foreſaid, by theſe preſents, makes, conſtitutes and ordains ——, and each one of them, conjunctly and ſeverally, his very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand-bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, his very full, free, plain power, expreſs bidding, mandate and charge, for him, in his name, and upon his behalf, to compear before Our Sovereign Lord, the King's moſt excellent Majeſty, and his royal ſucceſſors, and any others, the ſuperiors of the ſaid lands, barony, mills, mill-lands, woods, fiſhings, and others above ſpecified, with the pertinents, or their commiſſioners, in their names, having their power to receive reſignations, and thereupon to grant new infeftments, any day and place lawful and convenient; and there, with all due humility, and condign reverence as becomes, purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas the ſaid D. R. with conſent foreſaid, by theſe preſents, reſigns, ſurrenders, overgives and delivers, all and ſundry the foreſaid towns, lands, barony, mills, mill-lands, manor-places, houſes, biggings, yards, orchards, woods, fiſhings, moſſes, muirs, mariſhes, outſets, inſets, tenants, tenantries, ſervices of free tenants, annexes, connexes, dependencies, heritable offices, ſuperiorities, and others *reſpectivè*, particularly and generally above ſpecified, contained in the ſaid obligement to infeft, all lying, as ſaid is, and here holden as for expreſſed, *brevitatis cauſa;* and that in real warrandice and farther ſecurity to the ſaid W. D. elder and younger, and J. F. and their foreſaids, of the ſaid D. R. and his foreſaids, their effectual performance of the ſaid bargain, and of what further victual, ſalmon and grilſes the ſaid D. R. ſhall have, and that his ſaid eſtate will yearly yield to him, attour the ſaid yearly bargain, and excepting in the one caſe foreſaid, and that yearly, of the extent, quality, at the rates, of the crops, years, ſeaſons, meaſure, at the times, places, and counting, in manner, and according to the method and order above expreſſed, and at length ſpecified in the ſaid articles of agreement, additional bargain and advance, and obligement of payment and delivery above mentioned, and of his payment to them of the ſaid liquidate failzies and penalties for each undelivered boll and barrel of ſalmon and grilſes yearly, at the terms above rehearſed, with annualrent thereafter, during the not payment; and in like manner, in real warrandice and ſecurity to them of their ſaid bygone and fu-

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ture advancements for and to him, bygone, preſent or future, and of all incumbrances on the ſaid eſtate, and of their repayment of the ſums due by virtue of the rights and incumbrances to be acquired by them, with their intereſt, damage, and prejudice above ſpecified, and with the privilege, power and liberty of regreſs, ingreſs and acceſs to the ſaid lands and eſtate, and mails and duties thereof, and firſt, beſt and readieſt of the ſame, in manner, in the reſpective caſes, and according to the extent and latitude above expreſſed, in the hands of the ſaid lawful ſuperiors, or their commiſſioners above mentioned, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid W. D. elder and younger, and J. F. and their foreſaids, in real warrandice, as ſaid is, to be holden of the ſaid ſuperiors, in ſuch due and competent form as accords, acts, inſtruments and documents, one or more, as need beis in the premiſſes, to aſk and raiſe, and generally all and ſundry other things thereanent, to do, uſe, and exerce, ſicklike, and as freely in all reſpects, as the ſaid D. R. might do therein himſelf, if he were perſonally preſent; promiſing to hold firm and ſtable, *&c.* and which infeftments, and either of them, ſhall bear and contain this expreſs clauſe of warrandice following: Likeas now, as if the ſaid infeftments, and either of them were already made and paſſed, and then as now, the ſaid D. R. with conſent foreſaid, by theſe preſents, binds and obliges him and his foreſaids, to warrant, acquit and defend the foreſaid obligement to infeft, reſignation, and infeftments to follow hereupon, lands, barony, and others therein contained, to be ſufficient, free, ſafe and ſure to the ſaid W. D. elder and younger, and J. F. and their foreſaids, during the haill time of the ſaid bargain, and ay and while the ſame be effectually performed and fulfilled, and they paid of their ſaid advancements, particularly of what they ſhall be forced to advance for purging incumbrances, as ſaid is, and of their intereſt, damage and prejudice above written, from all and ſundry wards, reliefs, non-entries, eſcheats, liferents, forfeitures, conjunct fees, ladies terces, former alienations, private and publick infeftments, appriſings, adjudications, wadſets, annualrents, inhibitions, interdictions, recognitions, diſclamations, purpreſtures, reductions of infeftments, ſervices and retours, and generally from all and ſundry perils, dangers, burdens, nullities and inconveniencies whatſoever, as well not named as named, bygone, preſent as to come, which may any ways ſtop, trouble or impede them in the peaceable poſſeſſion thereof, or intromiſſion with the mails and duties of the ſame in time coming, ſo far as may be extended to their ſaid bargain, payments and relief, and to their intereſt, damage and prejudice above mentioned, at all hands, and againſt all deadly; excepting forth of the ſaid warrandices, real and abſolute, ſuch wadſets as the ſaid D. R. has granted of ſome parts of the ſaid lands, during his not redemption thereof, and Dame —— S. his lady her liferent of —— chalders victual, whereunto ſhe is provided by contract of marriage, of all years and terms after his own deceaſe, during her lifetime, in caſe ſhe ſurvive him, and but prejudice always to the ſaid W. D. elder and younger, J. F. and their foreſaids, to affect and recur upon the reſt of the ſaid D. R. his eſtate, conform to their ſaid right and real warrandice, and to defend themſelves, by virtue of their

other

other rights above narrated, againſt any perſon or perſons, except the ſaid L. who may quarrel or impugn their ſaid rights, as accords. And it is hereby declared, that the foreſaid abſolute warrandice ſhall be but prejudice of the ſaid real, and the ſaid real but prejudice to them of the ſaid abſolute warrandice; and that it ſhall be ſtill lawful to them, and in their power, to make uſe of both, or either of them, conjunctly or ſeverally, the one but prejudice of the other, in their option, ay and while the ſaid bargain be effectually performed, and they paid of all their advancements and engagements, intereſt, damage and prejudice above ſpecified, in manner, in the terms, and according to the extent and quality above rehearſed. And farther, and in corroboration, as ſaid is, the ſaid D. R. with conſent foreſaid, hereby aſſigns, transfers, and diſpones in their favours, the haill writs and evidents, both old and new, of the ſaid lands, barony, mills, mill-lands, woods, fiſhings, and others foreſaid, with the tacks, aſſedations, decreets of platt, and prorogations, valuation, and other rights made to him, his authors and predeceſſors, of the teinds parſonage and vicarage thereof, and rights of the annuities of the ſaid teinds in time coming, and conſtitutes them his aſſignees, in and to the mails and duties of the ſaid lands, barony, mills, mill-lands, fiſhings, and others foreſaid, alſo in time coming, ſo far as may be extended to, and ſecure them in the performance and payment of the ſaid bargain, and conform to the ſaid articles of agreement, additional bargain, and advancements, perſonal obligement, and real warrandice above mentioned, and in the terms thereof, and as may be extended to, and ſatisfy them of their ſaid advancements, upon the account of the ſaid real incumbrances, or otherways, and payment of their intereſt, damage and prejudice above mentioned, and no farther; and of the which writs and evidents of the ſaid lands and teinds, the ſaid D. R. obliges him and his foreſaids, on their own charges, to deliver to the ſaid W. D. elder and younger, and J. F. and their foreſaids, judicial tranſumpts, before the Lords of ſeſſion, or other judges competent, at leaſt to the extent of a legal progreſs, and to make the principals of ſuch as are not regiſtered forthcoming to them, in all caſes and cauſes wherein tranſumpts ſhall not be ſufficient; with full power to them, in caſe the ſaid D. R. and his foreſaids, fail in performance of the ſaid bargain, and likeways in payment of the liquidate failzies and prices of each undelivered boll and barrel, at the times appointed for that effect, with the intereſt thereof, as ſaid is, or yet fail in payment of their ſaid advancements for him, particularly of what they ſhall be forced to pay out in acquiring the ſaid incumbrances, and in payment of the ſaid intereſt, damage and expences above expreſſed, to enter to the poſſeſſion of the ſaid lands, barony, mills, mill-lands, teinds, and others above mentioned; and to intromit with, uplift, aſk, crave and receive the mails, farms, kains, cuſtoms, caſualties, profits and duties thereof, at leaſt ſo much of the ſame as will be correſpondent and effeiring, in quantity and quality, to theſe things wherein the ſaid D. R. or his foreſaids, ſhall fail and be wanting and defective in, and that *brevi manu*, at their own hand, without any hazard of intruſion ſpuilziation, riot, or peril of ejection to be incurred by them therethrough; or, in

their option, in the uſual way, to ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, before any judge competent; and the ſame, and what diligences they already have upon the ſaid right of annualrent, appriſing and eſcheats, or all of them, to due and lawful execution cauſe be put; and generally all and ſundry other things anent the premiſſes to do, uſe and exerce, ſicklike, and as freely in all reſpects as the ſaid D. R. and his foreſaids, might do therein themſelves, at any time before the granting of theſe preſents, and before the rights and diligences above narrated, and in ſo far as may be extended, as ſaid is, in manner above expreſſed. And the ſaid D. R. with conſent foreſaid, obliges him and his foreſaids, to warrant the foreſaid aſſignation to the ſaid writs and evidents, and mails and duties, at all hands, and to the ſaid teinds, from their own proper facts and deeds, excepting in maner as is above excepted, in the ſaid abſolute warrandice, and with the quality therein expreſſed; and in caſe it ſhall pleaſe the ſaid W. D. elder and younger, and J. F. their heirs and aſſignees above ſpecified, to hold the ſaid lands, barony, mill, milllands, fiſhings, and others foreſaid, of the ſaid D. R. and his foreſaids, as their immediate lawful ſuperiors thereof, he binds and obliges him and his foreſaids, to enter and receive the ſaid heirs and aſſignees in-vaſſals to them therein, from time to time, *gratis*, freely, but any compoſition, and not to ly out themſelves unentered in the ſuperiority to their prejudice. And in caſe any caſualty, by eſcheat, liferent, or otherways, ſhall happen to fall in their hands, as ſuperiors foreſaid, he binds and obliges him and his foreſaids, to aſſign and diſpone the ſame in their own favours, or to any other perſon they pleaſe, for their behoof, and that likeways *gratis*, freely, but any compoſition; likeas now, as if the ſaid caſualties were already fallen out and occurred, and then as now, he, *per verba de preſenti*, for him and his foreſaids, aſſigns and diſpones the ſame in their favours for ever: And however, in caſe of the ſaid D. R. or his foreſaids their failure in all or either of the caſes and matters above mentioned, the ſaid W. D. elder and younger, and J. F. are empowered, and have right to poſſeſs the ſaid lands and eſtate, and intromit with the mails and duties thereof, to the extent above mentioned, and that accordingly they do poſſeſs and intromit; yet it is hereby expreſly provided and declared, that in caſe of their entry to the ſaid poſſeſſion, they ſhall only be liable for their actual intromiſſions, and to aſcribe what they truly intromit with and receive, in payment and ſatisfaction of any part of what due to them *pro tanto*, and ſhall no ways be liable upon the pretence of omiſſions, waſte land, or not doing diligence. And it is alſo hereby declared, that, notwithſtanding they do enter to the poſſeſſion, it ſhall be lawful to them, when they think fit, to deſiſt from, and leave the ſaid poſſeſſion, they making always intimation thereof by way of inſtrument to the ſaid D. R. and his foreſaids, and to uſe all execution againſt the ſaid D. and his foreſaids, upon theſe preſents, or former rights, or both, for performance thereof, without prejudice always to the real rights and infeftments, which are always to ſtand and affect the ſaid D. R. and his foreſaids, and their eſtate, ay and while they perform, ſatisfy and pay, conform

form to the tenor thereof, in all points. And it is farther hereby provided and declared, that in caſe the ſaid W. D. elder and younger, and J. F. or their foreſaids, be diſquieted and troubled in their ſaid bargain, or precluded from their payments, by any prior rights and incumbrances on the ſaid eſtate, and that thereby they be forced and neceſſitated to acquire the ſame, then, and in that caſe, it ſhall be lawful to them, not only to make uſe of theſe rights that they ſhall buy in and acquire, but alſo of all other rights ſtanding in their perſons; as well as this preſent right, and infeftments to follow thereon, as accummulative or diſtinct rights, the one but prejudice of the other, in their option, and that but any innovation or confuſion of rights, ay and while they be completely ſatisfied and paid, both of the ſaid bargain, conform to the ſaid articles of agreement, and of all other ſums advanced by them, or wherein they ſtand engaged for the ſaid D. R. with their intereſt, damage and prejudice above expreſſed. And, *laſtly*, It is hereby provided, that upon the ſaid D. R. and his foreſaids their performance of the ſaid bargain, in the terms thereof, and their being paid of ſuch ſums as they have, or ſhall advance for and to him, with what ſums they ſhall give out for acquiring of the ſaid incumbrances, and due by the rights thereof, and what intereſt, damage and prejudice they ſhall happen to ſuſtain and incur, in manner above ſpecified; that then, and incontinent thereafter, they ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them, either to renounce or diſcharge the foreſaid haill rights and infeftments, or, in the ſaid D. R. and his foreſaids their option, and with their conſents, to diſpone the ſame to any perſon or perſons they pleaſe; but with warrandice only, that they have not made, nor ſhall not make any other diſpoſition or right thereof to no other perſon nor perſons, in prejudice thereof, and the cauſes for which to be granted being ſo as they may do the ſame with ſafety, and without being recurred upon or againſt by any perſon or perſons, for, and upon the account of their intromiſſions, or payments otherways. *(After this, there followed a clauſe of regiſtration, and precept of ſeiſin; but in the cloſe of the precept, and before* in witneſs whereof, *this clauſe was inſert)* And that with and under the proviſions, conditions, limitations and exceptions above rehearſed. And in witneſs whereof, the ſaid parties, and other perſons, conſenters above named, have ſubſcribed theſe preſents, (written by ———,) with their hands, day, month, year of God, and place *reſpectivè* foreſaid, before theſe witneſſes,

CONTRACT *of Feu, betwixt a Nobleman and a Gentleman, according to the ancient Style, ſeen by me in a Charter-Cheſt, and much imitating (in the diſpoſitive Clauſe) that of Churchmen, albeit the Cauſe of the ſaid Feus differ; that of Churchmen being founded on Laws then in force, allowing Churchmens Feus for improving and bringing in Waſte Ground; and the other for Sums advanced at the granting of the Right; and contains ſome ſingular Things, worthy of Obſervation.*

AT ——— the ——— day of ——— ——— years: It is appointed, contracted, finally agreed and ended, betwixt a noble and potent Earl, J. E. of S. heritable proprietor of the lands and others after diſponed, and feued out, with the pertinents, on the one part, and A. S. of ——— on the other part, in manner following: That is to ſay, Foraſmuchas the ſaid A. S. has inſtantly advanced, paid and delivered to the ſaid noble E. in numerated and down-told ſilver, uſual current money of this realm of Scotland, (for outredding his Lordſhip's neceſſary, lawful and urgent affairs) whereof the ſaid noble E. holds him well content, ſatisfied and paid, and for him, his heirs and executors, exoners and diſcharges the ſaid A. S. his heirs, executors, and all others whom it effeirs, of the ſame, renouncing the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary, for now and ever: Therefore, the ſaid noble E. has ſold, annalzied, diſponed, and in feu-farm let, and for ever given out and demitted, and by theſe preſents, ſells, annalzies, diſpones, and in feu-farm lets, and for ever gives out and demits, to and in favours of the ſaid A. S. of ——— and to the heirs-male lawfully procreate, or to be procreate of his body, which failing, to his other heirs-male whatſoever, which all failing, to his heirs whatſoever, and their aſſignees, heritably, all and haill the ſaid noble E. his town and lands of ——— *(here inſert all the lands feued out, with the privileges and pertinents, as agreed upon, and the bounding, if any be, and then ſay)* lying within the pariſh of ——— and ſheriffdom of ——— with the privilege of holding courts on the ſaid lands, for making the rents thereof effectual, and upon blood and blood-wits within the bounds thereof, by themſelves, or deputes, for whom they are to be anſwerable; and with power to them to conſtitute their own clerks, and other members needful for that effect, together with the parſonage-teinds, or teind-ſheaves thereof included, and never to be ſeparated from the ſtock in time coming; together alſo with all right, title, intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which the ſaid noble E. his heirs and ſucceſſors, had, has, or any ways may have, claim, or pretend thereto, or to any part or portion thereof, or to the mails, profits and duties of the ſame, by whatſoever manner of way, in time coming; reſerving always to his Lordſhip, and his heirs and ſucceſſors, the thirlage of the ſaid lands to his Lordſhip's mill of ———, to which the ſaid A. S. and his foreſaids, and their tenants, are always hereby bound to come, and grind their corns growing upon the ſaid lands thereat, (except-

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ing teind-ſeed, and maſter's farm, without the ſaid farm thole fire and water on the ground) and to pay all the accuſtomed duties and ſervices thereat, according to uſe and wont. And the ſaid noble E. by theſe preſents, faithfully binds and obliges him, his heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid A. S. and the heirs-male of his body, which failing, his other heirs-male and of tailzie above ſpecified, and their aſſignees, heritably, in all and ſundry the lands, parſonage-teinds, and others above ſpecified, feued out, and diſponed to them, in manner above mentioned, with the burden always of the thirlage above ſpecified, to be holden the ſaid towns, lands, parſonage-teinds, and others foreſaid, with the pertinents, lying as ſaid is, to the ſaid A. S. and his foreſaids, of the ſaid noble E. and his above ſpecified, in feu farm and heritage for ever, for payment to the ſaid noble E. and his foreſaids, of the ſum of ——— uſual money of this realm, yearly, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-farm duty, beginning the firſt term's payment thereof at the term of Whitſunday next to come, for the term immediately preceding, and ſo forth termly thereafter, at the terms, and by equal portions, in manner foreſaid, in all time coming, and doubling the ſaid feu-duty the firſt year of the entry of each heir or heirs to the ſaid lands, and others foreſaid, as uſe is, of feu-farm allenarly, and that for all other burden, exaction, queſtion, demand, or ſecular ſervice, that may be any ways aſked or required forth of the ſaid lands, teinds, and others foreſaid, by whatſoever perſon or perſons, any manner of way, in time coming. And the ſaid noble E. binds and obliges him and his foreſaids, to make, grant, ſubſcribe and deliver to the ſaid A. S. and his foreſaids, a ſufficient charter, containing precept of ſeiſin, and other ſecurities requiſite and neceſſary thereanent, with warrandice always in manner under written: And in like manner, binds and obliges him and his foreſaids, to warrant the ſaid contract of feu-lands, parſonage-teinds, and others above diſponed, and feued out, with the pertinents therein contained, charter and infeftments to follow thereupon, to be ſufficient, free, ſafe and ſure to the ſaid A. S. and his foreſaids, from all and ſundry wards, reliefs, non-entries, marriages, and ſingle and double avails thereof, eſcheats, liferents, forfeitures, recognitions, diſclamations, purpreſtures, inhibitions, interdictions, appriſings, adjudications, conjunct fees, liferents, ladies terces, former alienations, private and publick infeftments, annualrents, reductions of infeftments, ſervices and retours, tacks, aſſedations long or ſhort, and from all and ſundry other perils, burdens, dangers and inconveniencies whatſoever, as well not named as named, bygone, preſent as to come, which may any ways ſtop, trouble, or impede them in the peaceable poſſeſſion, bruiking and enjoying of the ſaid lands, parſonage-teinds, and others above diſponed and feued out, or any part or portion thereof, or in the intromiſſion with the mails and duties of the ſame, of the crop and year after aſſigned, or thereafter in any time coming, at all hands, and againſt all deadly, as law will; reſerving always to the ſaid noble E. and his foreſaids, the thirlage of the lands and others above diſponed and feued out, with the pertinents, to his Lordſhip's mill aforeſaid, in manner, and in the terms above expreſſed. And in caſe the right of the ſaid lands, teinds and

others

others foresaid, shall be brought in question, the said noble E. binds and obliges him, and his foresaids, at their own charge, not only to warrant and defend the said A. S. and his foresaids, therein, and of its event, if to their prejudice, but also, to make the writs and evidents thereof forthcoming to them for that effect, when desired thereto, the said A. S. and his foresaids, making due and lawful intimation of any such actions of eviction to the said noble E. and his foresaids timeously, at least before litiscontestation be made in the cause, to the effect they may compear, concur and defend therein, as accords of the law. And farther, the said noble E. by these presents, binds and obliges him and his foresaids, that in case, at any time hereafter, the right of the said teinds shall be called in question, and legally evicted, by due course of law, to make up the same to them, by obtaining and procuring to them sufficient, valid, heritable and perpetual rights of the same in their persons, at least in the said E. and his foresaids, their own persons, and to convey, make over, and transmit the same in favours of the said A. S. and his foresaids, relative to, and in the terms of the said feu-right, and with warrandice, as is above rehearsed, and that *gratis*, freely, but any composition in respect of the price foresaid, paid yearly, for stock and teind, in manner above expressed. And in like manner, the the said noble E. by these presents, makes, constitutes and ordains the said A. S. and his foresaids, his very lawful, undoubted and irrevocable cessioners and assignees, in and to the haill mails, farms, kains, customs, casualties, profits and duties of the said lands and others foresaid, and teind-sheaves, and parsonage-teinds thereof, of the crop and year —— years, and yearly and termly thereafter in all time coming, and all action and instance competent, or that may be competent for the same, for now and ever: With full power to the said A. S. and his foresaids, to intromit, uplift, ask, crave, and receive the foresaid mails, farms, kains, customs, casualties, profits, duties and teinds of the said lands, and others foresaid, of the said crop and year —— years, and thereafter in all time coming, and thereupon to use and dispose at pleasure, and to call and pursue therefor, use warning, prosecute removing, decreets in the premisses to obtain and recover, and the same to due and lawful execution cause be put; and, upon payment, to grant discharges, which shall be sufficient to the receivers; and to keep courts yearly, or oftener, if need beis, on the said ground, for making the duties effectual, and upon blood and bloodwits, and any crime not capital, or inferring death, and to fine and punish the absents, deficients, and transgressors, according to law; and the escheats, mulcts, fines, and amerciaments of courts to uplift and exact, and the same for their own proper use to apply; and generally all and sundry other things anent, and in the premisses to do, use, and exerce, sicklike, and as freely, in all respects, and to all intents and purposes, as the said noble E. might have done therein himself, before the granting of these presents, and entering in this feu-contract. And the said noble E. binds and obliges him and his foresaids, to warrant the said assignation to the said teinds, in manner above specified, and the said mails and duties, from his own proper fact and deed, done, or to be done in prejudice thereof allenarly: As also, to warrant and relieve the said A. S. and his foresaids, of all cesses, taxations, and other publick burdens and impositions whatsoever, due and payable

payable forth of the ſaid lands, with the pertinents, of all years, terms and months preceding the feaſt and term of ——— laſt bypaſt, being the term of their entry thereto, they always relieving the ſaid noble E. and his foreſaids, of the like burdens and impoſitions ſinceſyne and in time coming. But as to all miniſters and ſchoolmaſters ſtipends, and augmentations thereof, annuities of the ſaid teinds, taxations, and other impoſitions that may affect and burden the ſaid parſonage-teinds, in all time coming, in reſpect the ſaid A. S. paid equal price for the teind as for the ſtock, and effeiring thereto, the ſaid noble E. obliges him and his foreſaids, to warrant, relieve and diſburden them of the ſame yearly and termly in all time coming, and to make the acquittances and diſcharges thereof forthcoming to them, when required; and if, through want thereof, they be diſtreſſed, and forced to make payment, the ſaid noble E. binds and obliges him and his foreſaids to reimburſe them therein, *cum omni damno*; conſenting theſe preſents be regiſtered, *&c.* and to that effect, both parties hereby conſtitute ——— their procurators, *&c.* Attour, to the effect the ſaid A. S. may be lawfully infeft in the ſaid lands, parſonage-teinds, and others above diſponed and feued out, with the pertinents, to be holden in manner foreſaid, the ſaid noble E. by theſe preſents, makes, conſtitutes and ordains ———, or any one of them, conjunctly and ſeverally, his undoubted and irrevocable baillies, to the effect after ſpecified; with full and ample power, warrant and commiſſion to them, conjunctly and ſeverally, as ſaid is, to paſs to the ground of the ſaid lands and others foreſaid, and there give heritable ſtate and ſeiſin, actual, real and peaceable poſſeſſion of the ſaid towns, lands, and others above diſponed, with the pertinents, lying as ſaid is, and here holden as for expreſſed *brevitatis cauſa*, and of the teind-ſheaves, and parſonage-teinds of the ſame, to the ſaid A. S. or his attorney in his name, bearer of theſe preſents, and that by deliverance to them of earth and ſtone of the ſaid lands, and an handful of corn for the ſaid teinds, upon the ground thereof, as uſe is; and this on no ways they leave undone: The which to do, gives full power thereanent, by this the ſaid noble E. his precept of ſeiſin granted for that effect, to be holden in manner above ſpecified; and with the reſervation of the thirlage of the ſaid lands to his Lordſhip's mill aforeſaid, in manner, in the terms, and to the extent and latitude above expreſſed. In witneſs whereof, both the ſaid parties have ſubſcribed theſe preſents, (written by ———,) with their hands, day, month, year of God, and place *reſpective* foreſaid, before theſe witneſſes,

OBSERVATIONS on Contracts of Feus.

1. I have ſeen, where, with the lands, a mill has been diſponed with the thirlage, and ſo no neceſſity of reſervation of the thirlage of the lands feued out to any other mill.
2. I have ſeen, not only ſuch particular lands, and a mill thereupon, feued, but, alſo the rent of the mill was not only made up of theſe particular lands, but even of other adjacent lands belonging to the ſaid heritor who feus; in which caſe, the other lands were thirled to the mill, as well as the lands actually diſponed and feued out, elſe the acquirer ſhould have paid a price for nothing, as to the thirle of the other lands, and thereby the acquirer is bound to know what ſucken the mill hath, that it may be thirled as formerly, and *per expreſſum*, elſe he is prejudged; and in a feu, a general clauſe of the thirlage uſed and

and wont, is dubious, and to be ſpecifick, puts the matter beyond queſtion in law, ſhould the matter afterwards be controverted.

3. I have ſeen ſtock and teind equally feued and diſponed, but the acquirer hath been obliged to pay the miniſter ſuch a competency of the ſtipend, for the granter of the feu his relief, and the feu duty was made the leſs; and as it was juſt for the granter to cede to it, ſo it was more ſafe for the acquirer; becauſe, when a church is competently provided, there is no ground of augmentation: And that a church muſt and ſhould be provided, is clear, and beyond all peradventure; whereas, if a man take a feu of teind as well as ſtock, without the burden of a part of the ſtipend, and correſpondent to the land, ſhould an augmentation afterwards fall out, it is hard to know in what condition the granter of the feu may be in, or of what value his warrandice may be of; and ſo, *tutius eſt*, to take on, *prima inſtantia*, a proportional part of the ſtipend, which ſecures the vaſſal *in eventu*: And I have the ſame opinion of wadſets, where teind as well as ſtock, are hypothecated.

I have ſeen in feus, clauſes irritant, in caſe of not payment of the feu duty, as, if two terms run in the third, or the like, (yea, if one term run in the ſecond, which was ſevere,) the feu ſhould fall without declarator.

I have ſeen alſo all irritancies diſcharged, only power left to poind the ground, in caſe of contravention of the terms therein prefixed.

I have ſeen a *pactum de non alienando et non contrahendo* in feus, without conſent of the ſuperior, elſe the feu to fall.

I have ſeen feus by a ſubject, *cum maritagio*, and the marriage liquidate to three hundred merks, *cum contigerit*, which was lawful, being a *pactum* in the feu. But here the queſtion ariſes: Afterwards the feuar acquires lands holden ward of the King, and becomes his Majeſty's vaſſal; and ſhould a marriage fall, to whom ſhall it belong? for the King, and juſtly, will claim it; and as to the marriage, preferable to all ſuperiors; and will be modified by the Lords, not ſimply upon conſideration of what holds of the crown ward, but alſo, what other eſtate the vaſſal has holden of King or ſubject: And yet, upon the other hand, the other ſuperior will contend, that whatever his Majeſty's preference may be, and in which he will not contend, yet this perſon, vaſſal now to both, had this feu, *cum maritagio*, of the ſubject ſuperior ſome ſcores of years, if not a century or two, before ever they had any lands holden of the King; and ſo, the after-acquiſition can never preclude the ſuperior, that is a ſubject, of his *jus proprium*, viz. the marriage liquidate by the feu-infeftment ſo long antecedent, ſpecially ſeeing it was an expreſs term of the feu: But for theſe, and the like queſtions, I leave them to lawyers to plead, and the Lords to judge and determine.

Some feus bear compearance at three head-courts of the ſuperior, or over-lord, and that perſonally, others by themſelves, and, in caſe of minority, or neceſſary abſence, by a proxy; others pay conſiderable cuſtoms and carriages, others have them converted at low rates; ſome vaſſals double all, both feu-duty, whether victual, money, or both, and cuſtoms, I mean the *ipſa corpora* at the entry of the heir; others but the converſion, in theſe words: *Et duplicando dictam feudefirmam pecuniariam primo anno introitus cujuſlibet hæredis ad predictas terras.* And, in the laſt place, I have ſeen only ſuch a ſmall ſum modified by the firſt feu, or by favour afterwards obtained from ſovereignty, the fountain of favours, in lieu and place of all duplication; ſo that, to conclude this point, men ſhould make a ſafe feu in the beginning, and as reaſonable a bargain as can be.

As for other feus, bearing oaſting, hunting, weapon-ſhawing, and appearing with their ſuperiors in the King's wars, and other honourable occaſions, I leave thoſe to them that have them, but have ſeen many of them; and albeit vaſſals ly under theſe obligations, yet ſuperiors are tender of them in the exacting; and for kings, they never exact them, but when the kingdom and government are concerned; and then all the ſubjects owe allegiance and obedience, as authority calls for it.

I have ſeen an infeftment holden of a ſubject, for payment of four pounds Scots, at Whitſunday yearly, *nomine albæ firmæ, una cum ſervitio forenſico*; and a queſtion ariſing amongſt

thoſe

those of the most eminent lawyers in the house, what this of *servitium forensicum* could import, there being a certain duty, and a blench-duty too, antecedent, it was concluded in the end, that because of the old league between Scotland and France, in which a mutual assistance and levy was agreed to, and was to be given as matters required, therefore, this gentleman, superior, took the vassal obliged, should himself be commanded by the King to go or send abroad, to go with his superior; and whatever was service, not within the kingdom, was *forensicum*, and could not import ward.

The last thing I give you, to cast your eyes upon, as to feus, (and what may be agreed upon betwixt parties in a *reddendo*)—There were two brethren of the first and second marriage; and as such seldom agree, and scarce by mediators, so these two were in law concerned, and in fine, the friends proposed, that the son of the second marriage should have all provided to him by his mother's contract, being a reasonable barony, but to hold the same of the brother of the first marriage, a nobleman, in feu, for payment of one hundred merks yearly, at Whitsunday and Martinmas, and doubling at the entry; but the brother of the second marriage, his friends affirmed, that was perilous, in case a liferent escheat or non-entries, after declarator, fell; whereupon another overture was proposed, to guard against these two inconveniences, *viz.* That the elder brother, as superior, and his heirs, should be obliged to enter *gratis*; and if a liferent-escheat, or non-entry fell out, to dispone *gratis*: but this was argued to be an uncertain security, being but a personal obligement, which could only affect an universal successor, but not a singular, who might come in by appriising or adjudication, and expirations of their legals; and upon this they split. But after some time, it was proposed, towards an accommodation betwixt such near relations, that the hazard might be guarded against, even in the two cases adduced, and wherein the hazard and fear stood; and that was, by inserting in the *reddendo*, not only the feu duty and duplication at the entry, as agreed to, but also ten merks for the liferent-escheat, if it fell by a denunciation, at an extraneous person's instance, and if at the superior's, for payment of twenty merks, attour the debt in the horning, due to the superior himself, with six shillings and eight pence to the superior, for the non-entry yearly, whether before or after declarator, and that attour the feu-duty itself, the true extent, whether old or new in feus, and that *in duriorem sortem et securitatem*, the liferent-escheat and nonentry, *toties quoties contigeret*, should, *per verba de præsenti*, be expresly taxed. And in that case, I urged, that if the right of superiority should go, *per mille manus*, even by appriising or adjudication, or voluntary right, there was no hazard to the vassal; and to this all parties agreed: but being a novelty, and such as I never saw formerly, I would not rely upon my own proposition, or their assent, until the gentleman advised with my Lord Dirleton, who, after some days consideration, approved thereof, in the terms proposed, but advised it might be confirmed by the King, and ratified in parliament; and so the parties ended in these terms, and was confirmed and ratified accordingly, and the vassal some years thereafter, was in such entire friendship with his elder brother, that he acquired the right of superiority from him holden of the crown, and thereupon infeft; and so put the matter beyond question, as well as hazard.

At other times, when men are upon a bargain, for sale of lands, *&c.* irredeemably, and have not their writs by them, so as to make a present closure, the remedy fallen upon, is to enter in a minute; which method, albeit against it, in my opinion, being a seed of plea, yet seeing it is ordinary, I have set down such a draught of a minute as I judge fair and just in in such cases, not but the conditions therein, in some cases, may alter, and as parties agree.

MINUTE *of* CONTRACT *(anent the Sale of Lands, irredeemably) betwixt* A. B. *of* —— *and* C. D. *of* —— *with a Reſpect to the Right of the Parſonage and Vicarage-Teinds, whether heritable or temporary.*

AT —— the —— day of ——— —— years: It is minuted, agreed and ended betwixt A. B. of —— and C. D. of —— on the one and other parts, in manner following: That is to ſay, The ſaid C. D. for the onerous cauſes after ſpecified, by theſe preſents, binds and obliges him, his heirs and ſucceſſors, to obtain the full, heritable and irredeemable right of all and ſundry the lands of —— *(here inſert the lands and others agreed for, as they are deſigned in the infeftments, and then ſay)* lying within the pariſh of —— and ſheriffdom of ——, legally and validly eſtabliſhed in his perſon, if not already done, and if done, or being ſo eſtabliſhed, to ſell, annalzie and diſpone the ſame in favours of the ſaid A. B. his heirs and aſſignees, heritably and irredeemably, with all right he has, or can pretend thereto; and to infeft and ſeiſe them therein by double infeftments, and manner of holdings, *à me* or *de me*, in the ſaid A. B. his option, and in manner after expreſſed; and to make, grant, ſubſcribe and deliver to the ſaid A. B. and his foreſaids, ſufficient diſpoſitions, containing procuratories of reſignation, charters, containing precepts of ſeiſin, and other ſecurities requiſite and neceſſary thereanent, with abſolute warrandice againſt real incumbrances and grounds of eviction whatſoever, bygone, preſent and to come; and likeways, to purge the ſaid lands, and others foreſaid, of all ſuch real incumbrances that ſhall be detected from regiſters, and purchaſe and obtain to the ſaid A. B. and his foreſaids, either ſufficient renunciations and diſcharges of any ſuch incumbrances, or thoſe in the right and title thereof, their conſents to the ſaid bargain and diſpoſition to be extended thereupon, and to aſſign them to the writs and evidents of the ſaid lands and others foreſaid, in ample form, and to deliver the ſame to them upon inventory; and to make appear at the ſight of lawyers, that the progreſs thereof is full and complete; and if any thing defective therein, to make the ſame up at the ſight and by the advice of the ſaid lawyers, and to aſſign them to the mails and duties of the ſaid lands and others foreſaid, of the crop and year ——— years, and haill terms thereof, both victual and ſilver, cuſtoms and ſervices (6), and likeways to the tack and rights of the teinds of the ſaid lands, and prorogations thereof, and benefit of the ſame, both as to the parſonage and vicarage, and right of annuity of the ſaid teinds, alſo of the ſaid crop, and of both lands, teinds and annuity thereafter in all time coming; and to make appear to the ſaid A. B. and his foreſaids, and their lawycrs, that the right of the ſaid teinds is valid, and are to continue unexpired, and without any defect and nullity therein, for the ſpace of —— liferents and —— nineteen years after the ſaid C. D. his own deceaſe (7), and that the ſaid teinds pay no more yearly to the titular, miniſters, or any other perſon, but —— bolls bear *(here inſert what elſe payable)* and with the burden of the payment whereof, the ſaid crop and year, and thereafter in time coming,

ming, the right of the ſaid teinds is to be granted, and the ſaid C. D. and his foreſaids, obliged to warrant againſt all future augmentations, attour the preſent duty, and what paid to the titular and miniſter, as ſaid is. And in caſe, by any ſupervenient law, any augmentations be granted upon the ſaid teinds, or they otherways affected or evicted, the ſaid C. D. and his foreſaids are to ſecure againſt the ſame, or to repeat proportionally, and effeiring and correſpondent to any ſuch augmentation or eviction, the ſaid A. B. having paid and being to pay as much for the chalder of free teind as for the ſtock; and in caſe, after production of the right of the ſaid teinds, any defect at preſent may be found therein, and which, in fine, may be a ground of eviction, the ſaid C. D. and his foreſaids, are obliged inſtantly to make up the ſaid defect or default proportionally of the price; for the which cauſes, the ſaid A. B. binds and obliges him and his foreſaids, to content and pay to the ſaid C. D. his heirs and aſſignees, the ſum of ——— Scots money, and which, with the ſum of ——— money foreſaid, now advanced, completes and makes up in the haill the ſum of ——— money above written, as the price agreed upon, for the heritable and irredeemable right of the ſaid lands, and others to be diſponed, and likeways for the right of the ſaid teinds, at the rate of ——— for each chalder of ſtock and free teind, and that betwixt the date hereof and the ——— day next to come, but longer delay, with annualrent from the term of ——— laſt bypaſt, being the term of the ſaid A. B. his entry to the ſaid lands and teinds, to the ſaid day of payment, and thereafter in time coming, during the not payment. And the ſaid C. D. obliges him and his foreſaids, to warrant and relieve the ſaid A. B. and his foreſaids of all ceſſes, and other publick burdens preceding the ſaid term; and the ſaid A. B. and his foreſaids, are to relieve them of the like burdens ſinceſyne, and in time coming; and the ſaid C. D. obliges him to move his lady to ſubſcribe conſenter to the right, and ratify judicially. And both parties oblige them and their foreſaids, to perform the premiſſes to one another betwixt the date hereof and the ——— day of ——— next to come; and the party failer to pay to the party obſerver, or willing to obſerve the ſame, the ſum of ——— money foreſaid, in name of liquidate penalty, in caſe of failzie, and that by and attour performance, and together therewith. *(The clauſe of regiſtration follows.)*

Nota, Some, in minutes, not only oblige to diſpone, but alſo, *per verba de preſenti*, do it with procuratory of reſignation and precept of ſeiſin, for fear of intermediate impediments betwixt the minute and extenſion.

Nota, When the diſponer has an heritable right to the teinds, it goes with the land in the diſpoſitive clauſe, reſignation and precept of ſeiſin and aſſignation to the writs; but all betwixt the figures of (6) and (7) left out in that caſe.

Nota, Ye will find horning on the former minute, p. 50.

The next thing resolved to be fallen upon, is a CONTRACT *betwixt Neighbours, in relation to their controverted Marches, (by some termed Indentures of Marches, and justly so called) and a final Agreement and Conclusion thereanent for the Future, both as to Property and Commonty; and may be a Rule to all in such Cases,* mutatis mutandis.

AT —— the —— day of —— —— years: It is contracted, indented, finally agreed and ended betwixt A. B. of —— and C. D. of —— on the one and other parts, in manner following: That is to say, Forasmuchas the said parties, and their predecessors, being neighbouring heritors, and a considerable part of their estates lying contiguous, did for many years continue in a firm peace, love and amity, until of late, that some controversy and debates, in point of marches, have arisen amongst them, and more by the instigation of some of their tenants than their own inclinations; and should they go to law upon that head, as the expence would prove great, so the advantage that either party could in fine propose to him, or successors, could not be of great value, besides the bad effects of animosities betwixt neighbours, even in their own time, and the evil presages of a visible seed of plea to their posterity; and considering, that difference in marches have exposed men to great hazard, yea, the effusion of blood, and eradication of fortunes and estates beyond that they can pretend to; and the said parties being willing and resolved to obviate all inconveniencies of that nature, and to live in a firm peace and unity together, and to transmit the like blessing to their posterity: Therefore, and notwithstanding of whatever either of the said parties their just pretences might be, either in point of right, or by immemorial possession, they, by these presents, fully, freely, frankly and peaceably agree, accord and resolve all their debates and controversies, relating to their marches, in the terms following, *viz.* In the *first* place, it is agreed and condescended, that the said A. B. his march on the south of his lands of —— shall begin at —— and extend itself to ——, and that the march of his lands of —— shall begin at —— and extend itself to ——, and that in property, to remain with him, his heirs and successors, as such, for ever in all time coming. And in the n . place, that the said C. D. his march of his lands of —— shall begin at the east from ——, and extend itself to ——, and that in property, to remain with him, his heirs and successors, as such, for ever in all time coming. And for the better clearing of the said marches, and that there may be no mistakes for the future, both the said parties bind and oblige them and their foresaids, betwixt and the —— day of —— next, to have their own march-stones in readiness, consisting of an ell and an half in height, and —— in square, with the initial letters of their names in the top of their own march-stones, for distinction; and the next day thereafter, to compear on the ground where the respective marches begin and terminate, betwixt the hours of —— and —— in the forenoon, accompanied and attended with all their men-tenants and servants, and then and there, in their presence, fix

and

and ſet the ſaid march ſtones in their reſpective places, where the ſaid marches are appointed to begin and terminate, in manner foreſaid. And as to the other marches of the ſaid parties their lands adjacent, it is agreed and condeſcended, that the ſame continue as formerly, by the old dykes; and becauſe the ſaid dykes are failing, and may in a ſhort time ſo fail, as they may become inviſible, and no veſtige thereof remain, which may occaſion new debates and controverſies, and albeit not in this age, yet in after-times; therefore, both parties oblige them and their foreſaids, to cauſe their tenants, jointly, caſt feal at the root of the ſaid old dykes, and build dykes to the height of ſix quarters, on the old found, and that betwixt and the ſaid day; and how oft either the ſaid march-ſtones fall down, or the ſaid dykes decay, to ſet up the ſaid ſtones in their proper places, and rebuild the ſaid dykes on the ſame found. And in the *third* place, As to the commonty in debate betwixt the ſaid parties, it is agreed and condeſcended, that the hills and muirs of ——— ſhall be poſſeſſed by the ſaid parties, and their foreſaids, and by the tenants and poſſeſſors of their reſpective lands and eſtates, as commonty in all time coming, without any claim or pretext to be made by either of them, or their foreſaids thereto as property for the future. And both parties bind and oblige them, their heirs and ſucceſſors, to diſcharge one another of all letters of lawborrows and contraventions *hinc inde*, and to fulfil the premiſſes to one another betwixt and the ——— day of ——— next, but any longer delay; and the ſaid party failer to pay to the party obſerver, or willing to obſerve the ſame, the ſum of ——— Scots money, in name of liquidate penalty, in caſe of failzie, and that by and attour performance, and together therewith. (*To inſert a clauſe of regiſtration, according to the ſtyle of contracts as formerly preſcribed*, uſque ad finem.)

Nota, This may ſerve for a ſtyle of all contracts of this nature, with ſuch alterations as parties may agree upon, and wherein the writer may be eaſily determined.

A CONTRACT *of the Coal of* Abercrombie, *and ſome Ground betwixt the Laird of* Abercrombie *and* Thomas Hunter, William Balfour *and* James Crombie, *perfected at* Murthlie, *the* 10*th of* October 1601, *and in a good Style, albeit ancient.*

AT M. the 10th day of October, the year of God 1601 years: It is appointed betwixt the right honourable T. A. of that ilk, for him, his heirs, as well of tailzie and proviſion as of line, his ſucceſſors, executors and aſſignees, with expreſs conſent and aſſent of J. B. his ſpouſe, and taking full burden on him and his foreſaids for his ſaid ſpouſe, for fulfilling her part of this contract, ont he one part, T. H. and W. B. burgeſſes of Edinburgh, and J. C. burgeſs of Perth, on the other part, in manner following: That is to ſay, Foraſmuchas for the diſpoſition in feu-farm infeftments, and other clauſes after ſpecified,

fied, the ſaid T. A. of that ilk, has, at the making hereof, received really, and with effect, in numerated money from the ſaid T. H. W. B. and J. C. the ſum of ——— gold and ſilver, good and uſual money of this realm, whereof the ſaid T. A. of that ilk, holds him well content, ſatisfied and paid, and renouncing the exception of not numerated money, and all other exceptions, for him and his foreſaids, exoners, quit-claims and diſcharges the ſaid T. H. W. B. and J. C. and each one of them, their heirs, executors and aſſignees, for now and ever: Therefore, and for ſundry other profits, pleaſures, gratitudes and good deeds done to the ſaid T. A. of that ilk, and for the commodity under written, to be done and performed to him, as after follows, by the ſaid T. H. W. B. and J. C. and their foreſaids, as is ſet down in this preſent contract, the ſaid T. A. of that ilk, has bound and obliged, and by the tenor hereof, binds and obliges him and his foreſaids, by his and their charter and infeftments of feu-farm made for the ſums of money *titulo oneroſo*, with conſent of his ſaid ſpouſe, who ſhall conſent, and by theſe preſents, conſents thereto, with the ſpecial clauſe of warrandice under written, and with all other clauſes of warrandice, in ſuch ſure, large and ample form as the ſaid T. H. W. B. and J. C. their heirs and aſſignees, or any of them, ſhall deviſe, with precept of ſeiſin thereuntil, and ſeiſin following thereupon, after the date of theſe preſents, and before the feaſt of Martinmas next to come, in this inſtant year of God 1601 years, duly, validly and effectually to infeft and ſeiſe the ſaid T. H. W. B. and J. C. equally and proportionally, (each one of them for a juſt third) their heirs and aſſignees whatſoever, heritably and irredeemably, but any reverſion, redemption or regreſs whatſoever, in all and haill three acres of land, with their pertinents, of the muir of the lands of A. next adjacent to the ſhade of land called the M. lying in the barony of A. within the ſheriffdom of F. and in all and ſundry the coals and coal-heughs of the haill lands and barony of A. lying within the ſheriffdom foreſaid, wherever the ſaid coals and coal-heughs ly, or are win, gotten, cutten or hewn, or may be win, gotten, cutten or hewn, under the earth, or above the earth, in whatſoever part and parts, place or places of the ſaid lands and barony, or within the bounds, meiths and marches thereof, and with the ſervitudes, commodities, privileges and liberties under written, for making, winning, caſting, hewing, ſelling, diſponing, receiving, carrying and tranſporting of the ſaid coals, coal-heughs, by ſea and land, drying of the ſaid coals or coal-heughs, hawling, carrying, receiving, collecting and conveying of water therefrom, and for making, caſting, winning, interlining and upholding of ſinks, ſyers, gutters, eyes, levands, pots, air-holes, ſtairs and paſſages, in whatſoever part and parts, place and places of the ſaid lands and barony, as well the arable land, and corn-field lands thereof as others, for making, winning, hewing, caſting, bearing, drying, carrying and conveying of the ſaid coals, coal-heughs, ſinks, ſyers, gutters, eyes, levands, pots, air-holes, ſtairs, paſſages and waters, as the ſaid T. H. W. B. and J. C. and their foreſaids, ſhall think moſt commodious and expedient, to be holden and to be held, all and haill the ſaid three acres of land, and all and haill the ſaid coals and coal-heughs, with their pertinents, with the ſaid ſervitudes, liberties and privileges under written,

of

of the ſaid T. A. of that ilk, and his heirs-male, in feu-farm and heritage for ever, for the yearly payment to them of the ſum of ten pounds good and uſual money of this realm, at two uſual terms in the year, Whitſunday and Martinmas in winter, by equal portions, in name of feu-farm allenarly; with ſpecial clauſe of warrandice to be contained in the ſaid infeftment of feu-farm, to warrant, acquit and defend, likeas the ſaid T. A. of that ilk, by the tenor hereof, binds and obliges him and his foreſaids, now as if the ſaid infeftments were paſſed, and then as now, to warrant, acquit and defend to the ſaid T. H. W. B. and J. C. equally and proportionally amongſt them three, each one of them for their own proper juſt third, their heirs and aſſignees whatſoever, heritably and irredeemably, but any reverſion, redemption or regreſs whatſoever, all and haill the ſaid three acres of land, with their pertinents; and all and haill the ſaid coals, coal-heughs, and others foreſaid, ſervitudes, liberties and privileges above ſpecified, with their pertinents, free, ſafe and ſure from all wards, reliefs, non entries, ladies terces, conjunct fees, liferents, annualrents, eſcheats, forfeitures, recognitions, frank tenements, baſtardies, former infeftments, alienations of the haill or moſt part, reſignations, renunciations, ſtates and ſeiſins, private and publick wadſets for mails, tacks long and ſhort, exactions, impoſitions, appriſings, proviſions, diſclamations, reductions, inhibitions, interdictions, and from all other diſpoſitions, grounds of eviction, burdens, clags, claims, dangers, perils and inconveniencies whatſoever, for whatſoever cauſe, fact, deed or occaſion, bygone, preſent or to come, whereby the ſaid acres, coals, coal-heughs, and others foreſaid, ſervitudes, liberties and privileges above mentioned, with their pertinents, may be evicted, in haill or in part, from the ſaid T. H. W. B. and J. C. and their foreſaids, or any of them, or the yearly uſe or commodity thereof, diminiſhed or ſecluded from them, or any of them, or the ſame in any ways burdened, charged, hindered, ſtayed or ſtopped, or whereby they, or any of them, their men-tenants or ſervants, coal-hewers, grieves, or others, or the buyers, carriers or tranſporters of the ſaid coals, their horſes, carts, ſlades, waggons, goods or gear, may be debarred, hindered, ſtopped, charged, pounded, troubled, damnified or moleſted, either from the lawful apprehending of the peaceable poſſeſſion of the ſaid coals, coal-heughs, and others foreſaid, and of the ſaid ſervitudes, liberties and privileges aforeſaid, uſes and commodities thereof, or in the bruiking and poſſeſſing of the ſame, and with all other clauſes of warrandice, in ſuch ſure and ample form as the ſaid T. H. W. B. and J. C. and their foreſaids, and each one of them ſhall deviſe: With full power, liberty and licence to them and their foreſaids, and each one of them, by themſelves, their men-tenants, ſervants, hewers, coal-hewers, coal-grieves, water-drawers, coal-bearers, and others whatſoever, by their direction, at their option and pleaſure, as they ſhall think moſt expedient, in, upon, and through the ſaid lands and barony, and whatſoever part and parts, place and places within the ſame, and within the bounds, meiths and marches thereof, to cut, hew, bear, carry and win the ſaid coals, and to ſell and diſpone thereupon, convey, carry and tranſport the ſame to whatſoever part they pleaſe, by burdens, horſeloads, ſleds, carts and wains; and to that effect, and for the better and more commodious

modious cutting, hewing, bearing, winning, carrying and tranſporting of the ſaid coals, to make, caſt and uphold hows, pots, ſinks, ſyers, gutters, eyes, levands, air-holes, ſtairs, paſſages, water-draughts, dams and receptacles of water, and by whatſoever force and engines they pleaſe, to dry the ſaid coals and coal-heughs, and to draw and hale the water for drying thereof; and to dam, collect and convey the ſame, after the drawing thereof, as they ſhall think expedient, and by whatſoever hard ſtone, feal, divot, and other materials of the ſaid lands and barony, to make, repair, big, maintain and uphold the ſaid hows, pots, ſinks, ſyers, gutters, eyes, levands, air-holes, ſtairs, paſſages, water-draughts, dams and receptacles of water, and engines foreſaid; and with all ſervitudes, *itineris actis et via*, by foot, horſe, ſleds, cart, wain, and otherways whatſoever, to and from the ſaid heughs, pots and ſinks, by, upon and through the ſaid lands and barony, for conveying and tranſporting of the ſaid coals, to whatſoever parts, by ſea or land, and with whatſoever other ſervitudes, liberties and privileges that may ſerve to the effect foreſaid, or that has been granted in any time heretofore, to whatſoever perſon or perſons, that had, or acquired any right of coals, coal-heughs, in moſt ample form. And if it it ſhall happen the ſaid T. H. W. D. and J. C. and their foreſaids, at any time or times hereafter, to make alienation, diſpoſition or reſignation of their part of the ſaid acres, coals, coal-heughs, and others foreſaid, with the ſaid ſervitudes, liberties and privileges in favours of any perſon or perſons, of no higher degree than themſelves; in that caſe, the ſaid T. A. of that ilk, binds and obliges him and his foreſaids, for payment to them of an half ounce weight of gold, to confirm the ſaid alienation and diſpoſition, and to receive the ſaid reſignation, and to admit and receive in immediate tenants to them, the ſaid perſon or perſons, in whoſe favours the ſaid alienation, diſpoſition or reſignation happens to be made, as ſaid is, and to give them due infeftments, rights and ſecurities thereupon, in manner contained in this preſent contract; and ſicklike, as it ſhall happen the ſaid T. H. W. B. and J. C. and their foreſaids, or any of them, or any others ſucceeding to them, or any of them, in the ſaid acres, coals, coal-heughs, ſervitudes, liberties, privileges and others foreſaid, in haill or by portions, to deceaſe in fee thereof, or of any part of the ſame, as oft as the ſame occurs *ſucceſſivè*, the ſaid T. A. of that ilk, binds and obliges him and his foreſaids, *toties quoties*, as oft to receive, enter and ſeiſe their heir or heirs apparent, heir or heirs of the ſaid decedents, in the ſaid acres, coals, coal-heughs, ſervitudes, liberties, privileges and others foreſaid *pro rata*, by precepts of *clare conſtat*, or otherways, as ſhall be thought moſt expedient for their ſecurity. Likeas alſo, the ſaid T. A. of that ilk, binds and obliges him and his foreſaids, as it happens them, or any of their foreſaids *ſucceſſivè*, to deceaſe, that their heir or heirs, and apparent heir or heirs *ſucceſſivè*, ſhall not ly forth of the ſaid lands and barony, and others foreſaid, nor ſuperiority thereof, to hold the ſame in non-entries; but that the ſame heir or heirs, and apparent heir or heirs, ſhall, immediately after their deceaſe *ſucceſſivè*, enter thereto, in due form as effeirs: And in caſe of failzie, in lying forth of the ſaid lands and barony, acres, coals, coal-heughs, and others foreſaid, or ſuperiority thereof, or in not receiving or entering of the heir or heirs, apparent

heir

heir or heirs of the ſaid decedents *reſpectivè*, as ſaid is, that the ſame ſhall be no cauſe of non-entry; and by virtue thereof, neither the ſaid T. A. of that ilk, nor his foreſaids, nor no other, ſhall claim no right nor title to the ſaid three acres of land, coals, coal-heughs, ſervitudes, liberties and privileges foreſaid, in haill or in part; nor to the profits, duties and commodities of the ſame, during the ſaid non-entries; but renounces the ſame, and all action, inſtance and claim thereof in favours of the ſaid T. H. W. D. and J. C. their ſaid heirs and aſſignees, proportionally, *pro rata*, according to their parts and portions aforeſaid. Likeas alſo, the ſaid T. A. of that ilk, by the tenor hereof, for him and his foreſaids, renounces *ſimpliciter*, all actions of reduction that may be competent in any time coming, by whatſoever law, act, ſtatute, condition, proviſion, or otherways, againſt the ſaid T. H. W. B. and J. C. and their foreſaids, or any of them, anent the annulling of the ſaid infeftment of feu-farm, *propter non ſolutam canonem*, in caſe of non-payment of the ſaid feu-farm duty, whether the ſame happen hereafter to be paid or not paid; ſo that the ſaid T. A. of that ilk, and his foreſaids, for payment of the ſaid feu-farm duty, ſo far as happens to be reſting owing thereof, ſhall only cauſe poind and diſtrenzie the moveable goods upon the ſaid acres and coal-heughs, for the ſaid feu-farm duty, in caſe of not-payment thereof, without quarrelling or calling in queſtion of the ſaid infeftment of feu-farm, for not payment of the ſaid feu-farm duty therein contained. And ſicklike, the ſaid T. A. of that ilk, by the tenor hereof, for him and his foreſaids, makes and conſtitutes the ſaid T. H. W. B. and J. C. and their ſaid heirs and aſſignees, the ſaid T. A. and his foreſaids, heritable baillies of the ſaid three acres of land, coals, coal-heughs, ſervitudes, liberties, privileges, and others foreſaid, with their pertinents; and gives, grants and diſpones to them the heritable office and juriſdiction of bailliary thereof, and upon the tenants, colliers, quarriers, grieves, workmen and others, haunting and reſorting to and from the ſame, and to remove, output and input them in priſon, or otherways, as they ſhall think moſt expedient, and to uplift and raiſe to their own behoofs, the iſchays and eſcheats of the ſaid office and court thereof, in moſt ample form of bailliary; and the ſaid T. A. of that ilk, binds and obliges him and his foreſaids, to enter duly, validly and effectually, the ſaid T. H. W. B. and J. C. and their foreſaids, their men-tenants, ſervants, colliers, quarriers, grieves and others, workmen to the ſaid acres, coals, coal-heughs, ſervitudes, liberties and privileges, and to the lawful, real and actual poſſeſſion thereof, and to maintain and defend them therein. And ſicklike, the ſaid T. A. of that ilk, binds and obliges him and his foreſaids, to cauſe whatſoever perſon or perſons, having or pretending, or that may have or pretend any right, title or intereſt to the ſaid lands, acres, coals, coal-heughs, ſervitudes, liberties, privileges and others foreſaid, or that may quarrel or impugn the ſame, to give their conſents to this preſent contract, and infeftment following thereupon, ratify and approve the ſame, conform to the tenor thereof in all points, in ſuch ſure, large and ample form, as ſaid is, T. H. W. B. and J. C. and their foreſaids, and each one of them ſhall deviſe; likeas alſo, the ſaid T. A. of that ilk, by the tenor hereof, binds and obliges him and his foreſaids, to reform, reiterate and renew the haill premiſſes, and all other liberties neceſſary, commodious or profitable, for the winning, ſelling and tranſporting of the ſaid

coals, and to make all farther ſecurities thereanent, and anent the premiſſes, to the ſaid T. H. W. B. and J. C. and their foreſaids, in ſuch ſure, large and ample form as they ſhall deviſe, ay and while they find themſelves to have ſufficient ſecurity thereanent, and to be ſicker and ſure thereof; for the which cauſes alſo, after the winning of the ſaid coals, and after the ſame happens to be laid in the heugh-hill, where the ſame are win, the fourth load thereof, great and ſmall, ſhall be reſerved to the ſaid T. A. of that ilk, and his foreſaids, to pertain to them, and to be freely received and intromitted with by them, their men-ſervants and factors, immediately after the ſame are laid on the ſaid heugh-hill, with power to them to ſell and diſpoſe thereupon at their pleaſure; likeas, after the winning of the ſaid coals, and laying thereof on the ſaid heugh-hill, and reſervation and ſeparation of the ſaid T. A. and his foreſaids fourth part, or fourth load thereof to their behoof, it ſhall be leiſome to the ſaid T. H. W. B. and J. C. and their foreſaids, their men-ſervants, colliers, grieves and others, by their direction, to receive and intromit with the haill other three quarters and portions, and haill reſt and remanent of the ſaid coals, ſell the ſame, and uſe and diſpone thereupon at their pleaſure; and in caſe the ſaid coals be ſold overhead, in that caſe, the ſaid T. A. and his foreſaids, ſhall have the fourth part of the prices that beis gotten for the ſame, according to the knowledge of the ſaid T. H. W. B. J. C. and their foreſaids, according to the truth and verity of the counts that beis made to them by their grieves and ſervants, to be deputed and appointed by them, to that effect, upon the oath, conſcience and declaration of the ſaid grieves and ſervants, which declaration ſhall ſtand and be ſufficient to the ſaid T. A. of that ilk, and his foreſaids; likeas he, for him and his foreſaids, is contented to accept, and by theſe preſents, accepts of the ſame declaration and count, *toties quoties*, as often as the ſame happens to be made, as a perfect declaration and count, without any farther proceſs or declarator of the law, to be fitted and craved thereanent, renouncing by theſe preſents, all other counts to be made and given in thereupon. And farther, it is provided by this preſent contract, that for as much of the preſent manured, arable and corn-field ground of the ſaid lands and barony, as beis taken from the tenants and occupiers thereof, and whereof they happen to want the uſe, and which happens to be uſed and applied to the labouring and winning of the ſaid coals, or the caſting and winning of pots, or repair of horſes for buying and carrying of the ſaid coals, the ſaid T. H. W. B. and J. C. and their foreſaids, to be holden and aſtricted, and hereby oblige them to pay to the ſaid tenants and occupiers, the mails and farms proportionally, *pro rata*, of the ſame, ſo much of the ſaid manured, arable and corn-field ground, as beis taken from them, as ſaid is, and beis uſed and applied to the labouring and winning of the ſaid coals, or the caſting and winning of the ſaid pots, or repair of horſes for buying and carrying of the ſaid coal, in manner foreſaid, as the ſaid tenants and occupiers ſhould juſtly pay for the ſame, *pro rata*, and that ſo long as they ſhall happen to be debarred from the uſe and manuring thereof, by the uſing and applying of the ſame, to the labouring and winning of the ſaid coal, or the caſting and winning of the ſaid pots, or repairing of the ſaid horſes, to the effect foreſaid, as ſaid is, and no longer. And hereto both the

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ſaid parties faithfully bind and oblige them and their foreſaids, *hinc inde*, to others *reſpectivè*, as follows: And for the more ſure obſerving of the premiſſes, are content, and conſent theſe preſents be acted and regiſtered in the books of council and ſeſſion, to have the ſtrength of an act and decreet of the Lords thereof, with executorials of poinding, horning and warding, each one but prejudice of the other, to paſs thereupon, in form as effeirs, and the horning to be on a ſimple charge of ten days allenarly; and if the execution proceed ſo far, that it paſs to compriſing, both the ſaid parties, for them and their foreſaids, are content, and conſent, *hinc inde*, that for each hundred merks, where compriſing happens to be, there be appriſing for ten merks for each hundred merks, and ſo forth, *pro rata*, *hinc inde*, of whatſoever lands, annualrents and heritages pertaining, or that ſhall happen to pertain to them or their foreſaids, *hinc inde*, notwithſtanding of whatſoever laws, acts, conſtitutions, cuſtom or conſuetude that are, or ſhall happen to be in the contrary; and the ſaid parties make, nominate and conſtitute their well-beloved ———, and each one of them, conjunctly and ſeverally, their very lawful, undoubted and irrevocable procurators, to compear before the ſaid Lords, whatſoever days and places convenient, and conſent to the regiſtration hereof, *&c.* firm and ſtable holding and for to hold, *&c. in uberiori conſtitutionis forma.* In witneſs of the which, this preſent contract, being written by A. R. notary in Perth, both the ſaid parties have ſubſcribed the ſame with their hands as follows, year, day and place foreſaid: And notwithſtanding any clauſe contained in this preſent contract, and infeftment following thereupon, the ſaid T. H. W. B. J. C. and their foreſaids, ſhall have no farther ſervitude, liberty nor privilege for caſting and winning of ſtones and ſeal neceſſary for the ſaid coals, coal-heughs, acres and houſes to be built thereon, but only upon the preſent muirs of A. Neither yet ſhall it be leiſome to the ſaid T. H. W. B. and J. C. nor none of them, nor their foreſaids, to make alienation, diſpoſition, reſignation, nor ſet of the ſaid three acres of land, with the pertinents, to whatſoever perſon or perſons, of whatſoever eſtate or degree they be of, but to ſuch perſons as have right of the ſaid coals and coal-heughs for the time, and winning thereof, and none others, ſo that the ſame three acres of land, with the pertinents, ſhall not be employed nor converted to any other uſe, but to ſerve the ſaid coals and coal-heughs, winning and labouring thereof; neither ſhall the ſaid T. A. nor his foreſaids, be ſubjected or burdened to receive, accept or confirm any other alienation, diſpoſition, reſignation, nor ſet of the ſaid three acres of land, with the pertinents, that beis made to any perſon or perſons, except as ſaid is, and to the uſe and ſervitude of the ſaid coals and coal-heughs allenarly; likeas the fourth load of coals, which is above reſerved to the ſaid T. A. and his foreſaids, ſhall be made free to them by the ſaid T. H. W. B. and J. C. and their foreſaids, of all charges that beis made thereon, while the ſame be laid on the ſaid heughhill where the ſaid coals are win. And for fulfilling hereof, both the ſaid parties ſicklike bind and oblige them and their foreſaids, *hinc inde*, to others, for their own parts, and conſent the ſame be regiſtered, and executorials to be directed thereupon, in manner above expreſſed, before theſe witneſſes, Mr. T. A. of C. R. A.

brother to the ſaid T. A. and A. A. his ſervitors, T. N. notary, and the ſaid A. R. alſo notary. (*The ſubſcriptions are omitted, but this contract was drawn by a perſon, no doubt, educated at the lettron, and not without advice of lawyers, and has all the* vocabula artis *of coal.*)

The half of this contract, acres and coal, belonging afterwards to Mungo M'Caal, merchant burgeſs of Edinburgh, grandfather, *ex parte matris*, to Mr. James Henryſon of Pittadro, writer to the ſignet, from whom I had both it and charter after inſert, and accordingly entered by the laird of Abercrombie, ſuperior, upon the ſaid Thomas Hunter's reſignation, I thought fit to ſet down the charter of feu farm, both for the ſtile and Latin, that of coal being extraordinary, and not within every perſon or writer's comprehenſion.

CHARTER *of Feu-Farm by the Laird of* Abercrombie, *to* Mungo M'Caal, *of the Half of three Acres, Coals and Coal-Heughs of* Abercrombie, *upon* Thomas Hunter's *Reſignation.*

OMnibus hanc cartam, viſuris vel audituris, Thomas Abercrombie de eodem, ſuperior acrarum, carbonum, carbonariarum officii ballivatus aliorumque ſubtus ſpecificatorum, *ſalutem*, in Domino ſempiternam, *Noveritis* me dediſſe, conceſſiſſe, aſſedaſſe, arandaſſe, locaſſe, et ad feudefirmam ſeu emphitioſin perpetuam hæreditarie et in perpetuum dimiſiſſe, et hac preſenti carta mea confirmaſſe, nec non tenore preſentium dare, concedere, aſſedare, arandare, locare, et ad feudefirmam ſeu emphitioſin perpetuam hæreditarie dimittere, et hac preſenti carta mea confirmare, dilecto meo Quintigerno M'Caal mercatori burgenſi burgi de Edinburgh, hæredibus ſuis et aſſignatis quibuſcunque, totam et integram juſtam æqualem dimidietatem totarum et integrarum trium acrarum, cum ſuis pertinentiis, moræ meæ terrarum mearum de Abercrombie contigué adjacentis illi parti terrarum vocanti Dimuire Flatt, jacenti in baronia mea de Abercrombie, infra vicecomitatum de Fife, nec non totam et integram juſtam æqualem dimidietatem univerſorum et ſingulorum carbonum et carbonariarum omnium terrarum et baroniæ meæ de Abercrombie, jacentis infra vicecomitatum prædictum, ubicunque dicti carbones et carbonariæ jacent, aut lucrantur, habentur, læduntur ſive amputantur, vel lucrari, haberi, lædi ſive amputari poſſunt, ſubtus terra, ſive ſupra terram, in quibuſcunque parte et partibus, loco et locis dictarum terrarum et baroniæ, aut infra bondas, metas, et limites ejuſdem, cum ſervitudinibus, commoditatibus, privilegiis et libertatibus ſubſcriptis, pro rata, ad componendum, lucrandum, fodiendum, cedendum, alienandum, diſponendum, recipiendum, vehendum et tranſportandum dictos carbones et carbonarias, per terram, ſive equor arefaciendum dictos carbones et carbonarias, hauriendum, vehendum, recipiendum, colligendum, et conducendum aquas ab eiſdem carbonibus et carbonariis, ac ad componendum, fodiendum, lucrandum, et ſuſtinendum lie ſinks, ſivers, guttars, eyes, levands, pots, airholls, gradus et paſſagia, in quibuſcunque parte et partibus, loco et locis dictarum terrarum et baroniæ, ac ad fodiendum et lucrandum lapides, ceſpites, et terram, ad ædificandum domos ſalinas,

linas, aut ad quemlibet alium uſum neceſſarium, ad dimidietatem dictarum carbonariarum, pro rata, ſpectantem in quibuſcunque parte et partibus, loco et locis dictarum terrarum et baroniæ, tam arrabilium et ſuper quibus ſegetes creſcunt, quam aliarum terrarum, pro compoſitione, lucratione, læſione foſſione, vectione, arefactione, portatione et conductione dictorum carbonum carbonariarumque, lie ſinks, ſires, guttars, eyes, levals, potts, airholes, graduum, paſſagiorum et aquarum, ſicuti dicto Quintigerno M'Caal, ſuiſque antedictis, magis expediens et commodius videbitur. *Unacum* hæreditario officio, juriſdictione et privilegio ballivatus, dicto Quintigerno M'Caal ſuiſque prædictis, dictæ equalis dimidietatis prædictarum trium acrarum terrarum ac unverſorum carbonum et carbonariarum ſupra ſcriptarum, cum ſervitutibus, libertatibus, privilegiis, aliiſque præſcriptis, cum ſuis pertinentiis, prout ego tenore præſentium facio, conſtituo atque ordino prædictum Quintigernum M'Caal, hæredes ſuos et aſſignatos, meos legitimos et irrevocabiles hæreditarios ballivos ejuſdem dimidietatis acrarum et carbonariarum reſpective preſcriptarum, cum ſuis ſervitutibus et pertinentiis, dando, concedendo et committendo præfato Quintigerno M'Caal ejuſque predictis, meam plenariam poteſtatem et mandatum ſpeciale, curias earundem terrarum, carbonum et carbonariarum, ſupra aliquam partem earundem terrarum, carbonum et carbonariarum, quoties dicto Quintigerno ſuiſque præſcriptis expediens videbitur et opus fuerit, ſuper et contra tenentes carbonum, effeſſores, ceſſores, carbonum præfectos, opifices, ſervos alioſque ad eaſdem carbonarias confluentes, ſtatuendi, inchoandi, tenendi, affirmandi, et quoties opus fuerit continuandi, clericos, ſerjandos, adjudicatores, aliaque curiæ membra neceſſaria creandi, leges et ſtatuta pro boni ordinis in dictis carbonariis conſervatione ſtatuendi, delinquentes puniendi, excidus et amerciamenta dictarum curiarum levandi, et generaliter omnibus aliis eatenus requiſitis dictum officium ballivatus concernentibus utendi et exercendi, modo fuſe expreſſo in principali contractu alienationis, inito et conferto inter me prænominatum T. A. cum conſenſu quondam J. B. meæ conjugis ab una, et T. H. G. B. burgenſes burgi de E. et J. C. burgenſem de P. ab altera partibus, de dato apud M. decimo die menſis Octobris, anno Domini ——, in libris dominorum conſilii quinto die menſis Februarii, anno Domini ——, incerto et regiſtrato, prout dictus contractus ac carta aliaque jura et documenta ad eadem ſpectantia in ſeipſis latius efferunt: *Quæquidem* equalis dimidietas dictarum trium acrarum terrarum moræ meæ de A. cum ſuis pertinentiis, nec non dicta dimidietas præfatorum carbonum et carbonariarum omnium dictarum terrarum et baroniæ de A. cum ſuis ſervitutibus, privilegiis, et libertatibus ſupra ſcriptis, ut prefertur jacentium; *unacum* hæreditario officio balivatus dictæ dimidietatis acrarum, carbonum et carbonariarum reſpective præſcripto, cum ſuis ſervitutibus et pertinentiis, modo antedicto perpriu-, ad denominatum T. H. mercatorem burgenſem de E. per ipſum, de me prædicto T. A. de eodem, et hæredibus meis maſculis in feudefirma, tentæ hereditarie pertinuerunt, perque ipſum T. H. ejuſque procuratores ejus nomine ad hunc effectum ſpecialiter conſtitutos, et patentes literas in litera diſpoſitionis de ſuper conceſſa contentas, pure et ſimpliciter per fuſtum et baculum, ut moris eſt, in manibus meis, tanquam in manibus ſui immediati ſuperioris earundem, apud E. reſignatæ fuerunt, una cum omnibus jure, titulo, intereſſe, juriſclamio, proprietate et poſſeſſione,

ſione, quæ, quam, ſeu quas, dictus T. H. hæredes ſui et aſſignati, habuerunt, habent, ſeu quovis modo, in et ad eaſdem duas dimidietates reſpective, prefatarum acrarum, carbonum et carbonariarum aliorumque predictorum, cum ſuis ſervitutibus, libertatibus et pertinentiis ſupra ſcriptis, unacum hereditario officio balivatus earundem, ut prædictum eſt, in futurum habere, vel clamare poterint: Et hoc in favorem dicti Quintigerni M'Caal hæredum ſuorum et aſſignatorum, pro hac mea nova infeodatione ipſis, in debita et competenti uti congruit forma de ſuper, danda et deliberanda, prout in authenticis inſtrumentis de ſuper ſuſceptis latius continetur; tenendam et habendam totam et integram dictam juſtam equalem dimidietatem totarum et integrarum dictarum trium acrarum terrarum, cum ſuis pertinentiis, præfatæ meæ moræ de A. nec non totam et integram dictam equalem dimidietatem univerſorum et ſingulorum dictorum carbonum et carbonariarum omnium dictarum terrarum et baroniæ meæ de A. ubicunque dicti carbones et carbonariæ jacent, aut inveniuntur, aut effidi et haberi poterint, ſubtus terra ſive ſupra terram, in quibuſcunque partibus et locis dictarum terrarum et baroniæ, aut infra bondas et limites ejuſdem, modo antedicto, cum ſuis ſervitutibus, commoditatibus, privilegiis, et libertatibus ſupra dictis, unacum hereditario officio balivatus dictæ dimidietatis earundem acrarum carbonum et carbonariarum, ac omnibus libertatibus ad idem officium pro rata ſpectantibus, in dicto principali contractu ſpecificatis ut prefertur, memorato Quintigerno M'Caal hæredibus ſuis et aſſignatis præſcriptis, de me et hæredibus meis maſculis quibuſcunque, in feudefirma, ſeu emphitioſi, et hæreditate in perpetuum, per omnes rectas metas ſuas antiquas et diviſas, prout jacent in longitudine et latitudine, cum plenaria poteſtate, libertate, et licentia dicto Quintigerno M'Caal, hæredibus ſuis et aſſignatis preſcriptis, pro ſua rata portione prædicta, per ſeipſum, ejus homines tenentes, ſervos, carbonarios carbonum, prefectos aut vectores, hauſtores aquarum, aut alios quoſcunque per eorum directionem, pro ſuo arbitrio, in, ſuper, ac per dictas terras et baroniam, et quamcunque partem aut partes, locum vel loca, ac infra bondas, metas et limites ejuſdem, amputare, cedere, portare et lucrifacere dictos carbones, et de ſuper alienare et diſponere, vehere et tranſportare eoſdem ad quaſcunque partes ipſis placentes, per onera minora, vel onera equina, plauſtra, currus et vehicula, ac pro meliori amputatione, lucratione et vectione dictorum carbonum, ad componendum, fodiendum, et ſuſtinendum heugh, pottis, ſynchis, ſyeris, gutteris, eyis, levallis, airhollis, gradus, paſſagia aquæductus, detenimenta et receptacula aquarum, et qualibet arte dictos carbones et carbonarias arefacere et aquas ex iiſdem haurire, pro arefactione eorundem, ac detinere et tranſportare eaſdem aquas cum exhauſtæ ſint quo voluerint, ac per quaſcunque terras, lapides, ceſpites et glebas, aliaſque materias dictarum terrarum et baroniæ, facere, reparare, conſtituere et ſuſtinere dictas carbonarias, pottis, ſynkis, ſyeris, gutteris, eyis, levallis, airhollis, gradus, paſſagia aquæductus, detenimenta et receptacula aquarum, et ingenia prædicta, ac cum omnibus ſervitutibus itineris, actus, et viæ, per pedes, equos, currus, vehicula, et aliis modis quibuſcunque, et generaliter cum poteſtate dicto Quintigerno M'Caal, ſuiſque prædictis, pro rata, ad utendum omnibus aliis privilegiis et libertatibus in principali contractu alienationis, et carta reſpective ſupraſcriptis, de dato prædicta ſpecificatis, prout idem contractus latius enarrat: Reddendo inde

annuatim

annuatim dictus Quintigernus M'Caal, hæredes sui et assignati præscripti, mihi dicto T. A. de eodem, et hæredibus meis masculis, æqualem dimidietatem summæ decem librarum usualis monetæ regni Scotiæ, extendentem pro rata ad summam quinque librarum, ad duos anni terminos festa, *viz.* Pentecostes et Sancti Martini in hyeme, per æquales portiones nomine feudefirmæ; nec non post lucrationem dictæ dimidietatis præfatorum universorum carbonum, ac postea quam quidem carbones pro rata deponuntur super montem carbonariarum ubi lucrantur lucratum, onus ejusdem dimidietatis dictorum omnium carbonum, tam majorum quam minorum, mihi dicto T. A. meisque antedictis reservabitur, et ad nos pertinebit, ac per nos, nostros homines servos et factores libere recipietur et intromittetur immediate postea quam super dictum montem carbonariarum deponuntur, cum potestate mihi, meisque antedictis, ad nostrum placitum super dicto quarto onere dictæ dimidietatis præfatorum universorum carbonum, ut prædictum est, alienare et disponere, sicuti etiam post lucrationem dictæ dimidietatis dictorum omnium carbonum et depositionem earundem super dictum montem carbonariarum, ac reservationem et separationem mihi dicto T. A. meisque antedictis, nostræ quartæ partis, vel quarti oneris ejusdem dimidietatis nostro usui licebat, dicto Quintigerno M'Caal, suisque antedictis, eorum hominibus servis, carbonariis carbonum, præfectis, et aliis per eorum directionem, recipere et intromittere cum integris aliis quatuor quarteriis, et portionibus integrisque residuis et remanentibus præfatæ dimidietatis præfatorum omnium carbonum pro rata, eosque alienare uti, et desuper disponere, ad eorum placitum: Et si contigerit dictam dimidietatem præfatorum integrorum carbonum insimul alienari, eo casu, ego dictus T. A. meique antedicti habebimus, et habebunt quartam partem liberi prætii, pro eadem quarta parte dimidietatis omnium dictorum carbonum habiti, secundum notitiam dicti Quintigerni M'Caal, ejusque antedicti, secundum fidem et veritatem computorum ipsis, per eorum præfectos, et servos ad idem per ipsos deputandos faciendorum, super juramento, conscientia et declaratione dictorum præfectorum et servorum, quæquidem declaratio stabit, ac sufficiens erit mihi, meisque antedictis, sicuti pro me, meisque præscriptis acceptari contentus sit, ac per presentes accepto eandem declarationem et computum toties quoties fide contigerit, tanquam declarationem et computum præfectorum, [illegible]sque quovis ulteriori processu aut decreto legis de super exigendis et prætendentibus, renunciando per præsentes, omnia alia computa de super danda sive facienda secundum formam et tenorem dicti principalis contractus alienationis de super confecti ac cartæ eundem secutæ in omnibus punctis, pro omni alio onere, exactione, questione, demando seu servitio seculari quæ de dicta æquali dimidietate per quoscunque juste exigi poterant, quomodo libet vel requiri. Insuper dilectis meis —— et vestrum cuilibet conjunctim et divisim ballivis meis in hac parte specialiter constitutis, salutem, vobis præcipio et firmiter mando, quatenus visis presentibus, indilate statum sasinam hæreditariam, pariter et possessionem corporalem, actualem et realem, totius et integræ dictæ justæ æqualis dimidietatis totarum et integrarum dictarum trium acrarum terrarum moræ de A. cum suis pertinentiis, nec non totius et integræ dictæ æqualis dimidietatis universorum et singulorum dictorum carbonum et carbonariarum omnium dictarum terrarum et baroniæ meæ de Abercrombie,

crombie, cum ſuis ſervitutibus, libertatibus et pertinentiis antedictis, unacum dicto hæreditario officio balivatus ejuſdem dimidietatis dictarum acrarum, carbonum et carbonariarum, cum omnibus privilegiis et commoditatibus ad idem pro rata ſpectantibus, modo preſcripto, prænominato Quintigerno M'Caal, vel ſuo certo actornato latori preſentium, per terræ lapidis et carbonis fundi dictarum acrarum et carbonariarum reſpective in forma juris ſolita traditionem, ſecundum tenorem cartæ meæ præſcriptæ, juſte haberi faciatis, tradatis et deliberetis; et hoc nullo modo omittatis ad quod faciendum, vobis et veſtrum cuilibet conjunctim et diviſim balivis meis in hac parte antedictis, meam plenariam et irrevocabilem tenore præſentium committo poteſtatem. In cujus rei teſtimonium, huic preſenti cartæ meæ et præceptum ſaſinæ in ſe continenti, manu mea ſubſcripta, ſigillum meum proprium eſt appenſum, et vero per H. R. ſervum Magiſtri Ja. Harlaw ſcribæ ſigneti regii ſcripta eſt, apud Edinburgum, ſeptimo die menſis Junii, anno Domini milleſimo ſexcenteſimo ſexto, coram his teſtibus Magiſtro Thoma Abercrombie de Craigie, Richardo Dobie mercatore burgenſe de Edinburgo, Magiſtro Jacobo Harlaw ſigneti regii ſcriba, Andrea Drummond meo ſervo, et Joanne Kirk, ſervo dicti Magiſtri Jacob Harlaw. Sic ſubſcribitur,

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DISPOSITION *of Lands, &c. irredeemably, full and ample, contains the Right of Property of ſome Superiorities of others, with Patronages and Teinds, and Office of Bailliary, and wherein I ſhall ſuppoſe no extraordinary Tailzie.*

BE it known to all men by theſe preſent letters, me A. B. of —— heritable proprietor or ſuperior of the lands, barony, and others after diſponed, with the pertinents: Forasmuch as M. J. H. of —— has inſtantly advanced, paid and delivered to me, all and haill the ſum of —— uſual money of this realm, as the full and true price agreed and condeſcended upon betwixt us, for the heritable and irredeemable right of the lands, barony and others after ſpecified, diſponed by me to him in property, and for the heritable and irredeemable right of the ſuperiorities of the other lands and others after mentioned, feu, blench, and other duties due and payable to me, as ſuperior, forth thereof, likeways diſponed by me to him, in manner after expreſſed, and of the which ſum, as price foreſaid, I hold me well content, ſatisfied and paid, and for me, my heirs and executors, exoners and diſcharges the ſaid M. J. H. his heirs, executors, and all others whom it effeirs of the ſame, renouncing the exception of not numerate money, and all other exceptions and objections of the law whatſoever, that may be proponed or alledged in the contrary for now and ever: Therefore, wit ye me to have ſold, annalzied and diſponed, likeas I by theſe preſents, ſell, analzie and diſpone to the ſaid M. J. H. and heirs-male of his body, which failing, to his heirs-male whatſoever, which all failing, to his heirs whatſoever, and their aſſignees, heritably and irredeemably, all and haill the lands and barony of —— comprehending the particular towns, lands, mills, mill-lands, patronages, teinds, heritable office of bailliary, and others after ſpecified,

ſpecified, with the pertinents, *viz.* (*here inſert all comprehended in the barony, as they are enumerated and particularly ſet down in the diſponer's charter under the great ſeal, and where they ly, and then ſay*) all pertaining and belonging to me in property; and ſicklike, all and ſundry the towns, lands, and others particularly after mentioned, *viz.* (*here inſert all belonging to the diſponer in ſuperiority, and where they ly, and then ſay*) pertaining and belonging in fee and heritage to C. D. of —— and holden by him and his predeceſſors, immediately of me and my predeceſſors and ſucceſſors ſimple ward, for payment of the rents and ſervices uſed and wont, conform to his rights and infeftments thereof; and in like manner, all and haill, (*et ſic de cæteris* of the ſuperiority of the other lands holding feu, and to whom they pertained in fee and heritage, as to the *dominium utile*;) as alſo, all and haill the lands of —— pertaining heritably to H. D. of —— and holden by him and his predeceſſors, of me and my foreſaids, in free-blench, fee and heritage, for payment of the blench-duty contained in his rights and infeftments of the ſame, together with all right, title, intereſt, both property and ſuperiority, and other right, title, intereſt, claim of right and poſſeſſion, as well petitor as poſſeſſor whatſoever, which I, my predeceſſors and authors, heirs and ſucceſſors, had, have, or any ways may have, claim or pretend thereto, or to any part or portion thereof, or to any annualrent, annuity, or other duty upliftable forth thereof, or to the mails, farms, kains, cuſtoms, caſualties, profits, duties, and feu and blench-duties of the ſame *reſpectivè*, by whatſoever manner of way in time coming; and I bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid M. J. H. and his foreſaids, heritably and irredeemably, in the ſaid lands and barony of —— comprehending the particular towns, lands, mills, mill-lands, patronages, teinds, heritable office of bailliary, manor-places, houſes, biggings, yards, orchards, and others above ſpecified, diſponed by me to them in property, as ſaid is, and in the ſuperiority of the ſaid lands of —— holden of me by ſervice of ward and relief, in manner foreſaid, by reſignation in manner after mentioned; and alſo, in all and haill the remanent towns, lands and others above written, pertaining heritably to the perſons above named, and holden by them of me, in feu and blench-farms, in manner above rehearſed, and that by double infeftments and manner of holdings, the one thereof to be holden of me and my foreſaids, in free-blench, for payment of one penny Scots money, upon the ground of the ſaid lands, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and relieving me and my foreſaids, at my ſuperiors hands, of the duties due and payable by us to them, furth thereof, in time coming; and the other of the ſaid infeftments to be holden from me and my foreſaids, of my ſaid ſuperiors, ſicklike, and as freely in all reſpects, as I held, or may hold the ſame myſelf, and that by reſignation or confirmation, in their option, the acceptation of the one to be no ways prejudicial to the other; and for that effect, to make, grant, ſubſcribe and deliver to them, ſufficient diſpoſitions, containing procuratories of reſignation, charters, containing precepts of ſeiſin, as to what holds of myſelf feu or blench, as ſaid is, and other ſecurities requiſite and neceſſary thereanent, with warrandice always, in manner under written, the ſaid writs being formed, and the ſaid infeftments expede, upon their own proper charges,

moyen and expences: And for the better obtaining of the ſaid infeftment of the ſaid lands and barony of ——, comprehending in manner foreſaid, belonging to me in property, and which I hold of the crown taxt-ward, and of the ſaid other lands holden of me by ſervice of ward and relief, in manner foreſaid, and which I likeways hold of the crown taxt-ward, and in like manner, of the ſaid other lands and others belonging to me in ſuperiority, which I hold alſo of the crown feu and blench, and that by reſignation, as ſaid is, and but prejudice of the other infeftment above written, I, by theſe preſents, make, conſtitute and ordain ——, and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevocable procurators, actors, factors and ſpecial errand-bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge, for me, in my name, and upon my behalf, to compear before his ſacred Majeſty and royal ſucceſſors, my lawful ſuperiors of the ſaid lands and barony of —— comprehending in manner foreſaid, and likeways of the remanent lands and others above ſpecified, with the pertinents, all lying and pertaining heritably in property and ſuperiority, to me, in manner above expreſſed, or their commiſſioners in their names, having their power and commiſſion to receive reſignations, and thereupon to grant new infeftments, and that any day and place lawful and convenient; and there, with all due humility and condign reverence, as becomes, purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, over-give and deliver, likeas I, by theſe preſents, reſign, ſurrender, over-give and deliver, all and haill the foreſaid lands and barony of ——, comprehending the haill towns, lands, mills, mill lands, patronages, teinds, heritable office of bailliary, manor-places, houſes, biggings, yards, orchards and others *reſpectivè*, particularly and generally above ſpecified, and diſponed by me to the ſaid M. J. H. and his foreſaids, heritably and irredeemably, in property, as ſaid is, lying in manner foreſaid, and all here holden as for expreſſed, *brevitatis cauſa;* and alſo, all and haill the foreſaid lands of —— (*here inſert all the other lands and others in the diſpoſitive clauſe, and then ſay*) lying in manner above written, and pertaining heritably to the particular perſons above named, holden by them of me ſimple ward, and in feu-farm, blench-farm, fee and heritage *reſpectivè*, and pertaining to me in ſuperiority, in manner above rehearſed, together with all right, title, intereſt, both property and ſuperiority, and other right, intereſt, claim of right and poſſeſſion, as well petitor as poſſeſſor, which I, my predeceſſors, cedents and authors, heirs and ſucceſſors, had, have, or any ways may have, claim, or pretend to the ſaid haill lands, barony, and others particularly and generally above diſponed and reſigned, with the pertinents, or to any part or portion thereof, or to any annualrent, or other duty upliftable forth of the ſame, or to the mails, farms, profits, feu and blench-duties, or other duties thereof in time coming, in the hands of my ſaid lawful ſuperiors, or of their commiſſioners above mentioned, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid M. J. H. and to the heirs-male of his body, which failing, to his heirs-male whatſoever, which all failing, to his heirs whatſoever, and their aſſignees, heritably and irredeemably, to be holden of my ſaid lawful ſuperiors, in ſuch due and competent

compent form as accords, acts, inſtruments and documents, one or more, as need beis in the premiſſes, to aſk and raiſe, and generally all and ſundry others things thereanent, to do, uſe and exerce, as freely in all reſpects, as I might do therein myſelf, if I were perſonally preſent; promiſing to hold firm and ſtable, *&c.* And which infeftments, and either of them, ſhall bear and contain this expreſs clauſe of warrandice following: Likeas now, as if the ſaid infeftments were already made and paſſed, and then as now, I, by theſe preſents, bind and oblige me and my foreſaids, to warrant, acquit and defend the foreſaid right and diſpoſition, reſignation and infeftments to follow thereupon, lands and barony of ——, comprehending as ſaid is, and the haill remanent towns, lands and others above diſponed, with the pertinents therein contained, to be ſufficient, free, ſafe and ſure to the ſaid M. J. H. and his foreſaids, in property and ſuperiority *reſpectivè*, from all and ſundry wards, reliefs, nonentries, marriages, and ſingle and double thereof, eſcheats, liferents, forfeitures, recognitions, diſclamations, purpreſtures, inhibitions, interdictions, appriſings, adjudications, former alienations, private and publick infeftments, conjunct fees, liferents, ladies terces, annualrents, annuities, tacks, aſſedations long or ſhort, reductions of infeftments, ſervices and retours, and generally from all and ſundry other perils, burdens, dangers, and grounds of eviction whatſoever, as well not named as named, bygone, preſent, as to come, which may any ways ſtop, trouble or prejudge them in the peaceable poſſeſſion thereof, or intromiſſion with the mails and duties, feu and blench-duties, and other duties of the ſame in time coming, at all hands, and againſt all deadly; providing always, that if any action of eviction be intented, that they make lawful intimation to me and my foreſaids thereof, perſonally, or at our dwelling-places for the time, in preſence of a notary and witneſſes, at leaſt, before litiſconteſtation be made in the cauſe, to the effect we may compear, concur and defend, and make the writs and evidents of the lands now delivered by me to the ſaid M. J. H. upon inventory, forthcoming to us for that effect; and alſo, excepting always forth and from the ſaid abſolute warrandice, the right of feu granted by my predeceſſors of the ſaid lands of ——, with the pertinents, to the ſaid C. D. or his predeceſſors, and the right granted by my predeceſſors to the ſaid H. D. his predeceſſors, of the ſaid lands of ——, with the pertinents, and right granted by me or my predeceſſors, to the ſaid ——, of the ſaid lands of ——, and all to be holden of my ſaid predeceſſors, and now of me as their ſucceſſor, in ſimple ward, feu-farm, and blench-farm, fee and heritage *reſpectivè*, for ever, and in ſo far as may infer double warrandice allenarly, againſt me and my foreſaids: And it is hereby expreſly provided and declared, that the exception of the ſaid ſimple ward, feu and blench-rights, forth of the ſaid warrandice, ſhall not import or infer any explicit or implicit ratification or homologation thereof, but that it ſhall be always leiſome and lawful to, and in the power of the ſaid M. J. H. and his foreſaids, as now ſuperiors thereof, to reduce, quarrel and impugn the ſame, upon whatſoever grounds competent to them of the law, which ſhall not infer warrandice againſt me or my foreſaids; and ſicklike, excepting and reſerving forth of the ſaid abſolute warrandice, the tacks and aſſedations after ſpecified, ſet by me to the tenants after named, of theſe parts and portions of the ſaid barony

particularly after expreſſed, *viz.* (*here inſert the tacks curtly, with the years thereof, and duty therein mentioned, and then ſay*) and that for the years of the ſame, yet to run, and unexpired: And in reſpect of the foreſaid exception, I hereby make and conſent the ſaid M. J. H. and his foreſaids, my aſſignees, in and to the ſaid haill tacks, duties, ſervices and penalties therein contained, and that of ——, (*here inſert the term of the entry, and then ſay*) and yearly and termly thereafter, in all time coming, during the haill ſpace, years, and terms to run of the ſaid tacks, and in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid, of the ſaid barony, ſet in tack, as ſaid is, of all years and crops, after the expiring of the ſaid tacks in all time coming: And it is hereby declared, that neither the granting, nor acceptation of theſe preſents, with the foreſaid exception and aſſignation to the ſaid tack-duty, ſhall any ways import or infer any approbation or homologation thereof, but on the contrary, it ſhall be lawful to, and in the power of the ſaid M. J. H. and his foreſaids, to quarrel and impugn the ſame, upon whatſoever grounds competent to them of the law, that ſhall not infer warrandice againſt me or my foreſaids. And for the ſaid M. J. H. and his foreſaids, their farther ſecurity anent the premiſſes, I have aſſigned, transferred and diſponed, likeas I, by theſe preſents, aſſign, transfer and diſpone in their favours, all and ſundry contracts, diſpoſitions, charters, infeftments, procuratories and inſtruments of reſignation, precepts and inſtruments of ſeiſin, retours, precepts thereupon under the quarter ſeal, and ſeiſin following on the ſame, indentures and decreets of marches, tacks, aſſedations, decreets of plat and prorogations, valuations, and all other writs, evidents, rights, titles and ſecurities whatſoever, made and granted by whatſoever perſon or perſons, to me, my predeceſſors, cedents and authors, of, upon, or concerning the ſaid haill lands, barony and others particularly and generally above diſponed, with the pertinents, and of the teinds parſonage and vicarage thereof; and ſpecially, but prejudice of the generality foreſaid, the contracts, or other right of feu, paſſed betwixt my predeceſſors and the ſaid C. D. his predeceſſors, anent the ſaid lands of ——, with the pertinents, and infeftments following thereupon, and haill benefit thereof, and contract, or other right paſſed betwixt my ſaid predeceſſor, and the ſaid H. D. his predeceſſor, whereby the ſaid lands of ——, with the pertinents, were diſponed to the ſaid H. D. his predeceſſor, in free blench, for payment of the duty therein expreſſed, together with the infeftment following on the ſame, and benefit thereof, and contract or other right granted to the ſaid ——, of the ſaid lands of ——, to be holden by ſervice of ward and relief, and benefit of the ſame, of whatſoever dates, tenors, contents, nature or quality, all or either of the ſaid haill rights be of, together alſo with the haill heads, obligements, articles and clauſes contained in all or either of the ſaid rights; and have ſurrogated, and by theſe preſents, ſurrogate and ſubſtitute the ſaid M. J. H. and his foreſaids, in my full right, vice, title and place of the haill premiſſes, for now and ever; admitting and declaring the generality foreſaid, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if all the ſaid writs and evidents generally above aſſigned, transfered and diſponed, were, *de verbo in verbum*, herein inſert and in-

groſſed,

groſſed, albeit not ſo done; whereanent diſpenſes for ever: And ſicklike, I, by theſe preſents, make, conſtitute and ordain the ſaid M. J. H. and his foreſaids, my undoubted and irrevocable ceſſioners and aſſignees, in and to the haill mails, farms, kains, cuſtoms, teinds, caſualties, profits and duties of the lands and others above diſponed by me in property, and not under tack, and that of the crop and year of God —— years, and haill terms thereof, being the firſt crop of their entry, and yearly and termly thereafter, in all time coming; and in like manner, in and to the feu duties, and other duties and ſervices due and payable by the ſaid C. D. out of the lands and others above ſpecified, perraining to him in feu-farm, holden of me in manner foreſaid, and in and to the blench-duty due and payable, and what elſe preſtable by the ſaid H. D. to me as ſuperior, forth of the lands and others foreſaid, pertaining to him, and holden of me in manner above expreſſed, and duties and ſervices due and preſtable to me as ſuperior, forth of the ſaid lands and others foreſaid, pertaining heritably to the ſaid ——, and holden by him of me, by ſervice of ward and relief, in manner foreſaid, and that of all years bygone, reſting unpaid, and in all time coming, and all action, purſuit and inſtance competent, or that may be competent to me or my foreſaids thereupon for the future; with full power to the ſaid M. J. H. and his foreſaids, to intromit with, uplift, aſk, crave and receive the ſaid mails, duties, feu, blench, and other duties, cuſtoms, caſualties and ſervices above aſſigned, and to uſe and diſpoſe thereupon at pleaſure, and to call and purſue therefor, and to ſet and raiſe tenants, uſe warning, proſecute removing, as to the ſaid lands and others diſponed in property, as ſaid is, decreets in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put, and to do what elſe, I, as proprietor or ſuperior, might have done therein myſelf, at any time before the granting of theſe preſents; and I bind and oblige me and my foreſaids, to warrant the foreſaid aſſignation and right to the ſaid writs and evidents, in property and ſuperiority *reſpectivè*, at all hands, and to the ſaid teinds, in ſo far as I have only right by tacks or prorogations, and ſo temporary, and to the ſaid mails and duties, from my own proper fact and deed allenarly, done, or to be done in prejudice thereof, and but prejudice, nevertheleſs, to the ſaid M. J. H. and his foreſaids, of the ſaid abſolute warrandice, as well for the teinds as for the ſtock, heritably and irredeemably diſponed by me to them, in manner above rehearſed, and which, by the ſaid warrandice from fact and deed, is no ways to be innovated, hurt or prejudiced in the leaſt, the one being always to them, but prejudice of the other; and ſicklike, I bind and oblige me and my foreſaids, to warrant, free, relieve, harmleſs and ſkaithleſs keep the ſaid M. J. H. and his foreſaids, of all feu and blench-duties, and other duties whatſoever, due and payable to the ſuperior, and of all teinds, teind-tack-duties, miniſters and ſchoolmaſters ſtipends, and augmentations thereof, communion elements, reparation of kirks and kirk-yard dykes, ceſſes, taxations, out-reiks and levies of horſe and foot, and all other publick burdens and impoſitions whatſoever, due and payable forth of the ſaid lands and barony of ——, comprehending in manner foreſaid, or out of the ſuperiority, feu, and blench-duties, out of the other lands and others above diſponed, and that of all years, terms, and months, preceding the term of ——, being the

term

term of their entry to the ſaid lands and others foreſaid, both property and ſuperiority, they always relieving me and my foreſaids of the like in time coming; and farther, I hereby diſpone to them my ſeat and deſk, (*and if a loft, call it ſo,*) in the church of ——, and the ground whereupon built, belonging to the ſaid barony, with power to them, inſtantly to take poſſeſſion thereof, and diſpoſe of the ſame at pleaſure; likeas, I have inſtantly delivered to the ſaid M. J. H. the writs and evidents of the ſaid lands and barony of ——, with ſuch as I have of the other lands above diſponed, belonging to me in ſuperiority, and that upon inventory mutually ſubſcribed by him and me, of the date of theſe preſents, to be kept and uſed by him and his foreſaids, as their own proper writs and evidents, at their pleaſure in time coming, and which they are bound to make forthcoming to me and my foreſaids, for defence of the right of the ſaid lands, barony, and others foreſaid, in caſe the ſame be called and brought in queſtion, in manner above rehearſed. (*Inſert now a clauſe of regiſtration and precept of ſeiſin, only as to the lands eccentric to the barony, and what elſe holds ward, which hold feu or blench of the King; but no ways inſert the barony, or what elſe hold ward in the precept, leſt an inadvertent notary take ſeiſin, and ſo recognoſce the barony, and what elſe ward, as a notary did to Provoſt Graham in Dumfries, whoſe creditors ſuffered much by it; and to prevent the like, this diſpoſition only bears an obligement to infeft in the barony, and what elſe ward by reſignation; whereas the other lands diſponed, holding feu or blench, is by double infeftments.*)

Nota, A queſtion may ariſe here, *viz.* Should a writer inadvertently inſert a precept of ſeiſin, containing ward, as well as feu and blench lands, and the acquirer of the right, likeways ſo inconſiderate, and denied to his own ſafety and ſecurity, as to take ſeiſin, and regiſtered before confirmation, which ſhould always precede, and, by this deed, the ward-lands recognoſcing; upon whom ſhall the hazard terminate? whether the diſponer, who gave the power, or the acquirer, who anticipated by taking ſeiſin before the ſuperior's conſent to, and confirmation of the right was obtained? and really, as I ſuppoſe, the caſe has hardly been in the field and determined, for what I ever read or ſaw. The diſponer has much to ſay for himſelf, that the acquirer ſhould either have obtained a confirmation, before taking of ſeiſin, or paſſed his infeftment by reſignation, and not having done either, *ſibi imputet*; and the acquirer may urge, he did not underſtand the law or hazard of recognition, and in what caſes ſuch fell to the ſuperior; and the ſeller having given him a precept of ſeiſin, without reſerve, he conceived himſelf *in tuto* to take ſeiſin, and ſo, *non per eum ſtat*, but to be imputed to the diſponer, who gave the power: but for theſe, and ſuch like queſtions, they belong to lawyers, and I leave the matter to them. Only, however the deciſion in law might go, the remedy is far more eaſy, and the expence leſs, in the writer's leaving out a precept of ſeiſin, as to the ward-lands, whether ſimple or tax, being all one as to their nature, and but differing in the quality, and only inſerting, as to theſe, a procuratory of reſignation, as I have ſaid; and if any have erred in this, let them do ſo no more. I have likeways ſeen ſuch precepts of ward-lands, but with proviſion and qualification, that no ſeiſin paſs therein, until firſt confirmed, which yet ſeems more favourable for the diſponer, ſhould the acquirer act otherways; and yet, to put all hazard out of doors, that of paſſing by reſignation, or firſt confirming, is *tutius*.

Nota, To prevent the writing or inſerting the ſtiles of ſeveral or many diſpoſitions, or irredeemable rights, I chuſe rather to obſerve ſome things in lieu, and is all one to the intelligent, or partly bred in forms with a clerk to the ſignet. As,

1. At

1. At times, the eſtate to be diſponed is affected with ſome wadſets or rights of annualrents: but I ſhall ſuppoſe both; in which caſe, the diſponer cannot, even with a part of the price, purge them, albeit never ſo willing, becauſe there be years of ſuſpenſion, both as to premonition and requiſition; ſo that there is a neceſſity in that caſe, to tranſmit the right, with the burden of theſe wadſets and annualrents; and therefore, the diſpoſition muſt bear, *Foraſmuch as the acquirer has inſtantly made payment to the diſponer of the ſum of ——, which, with the other ſums after ſpecified, due upon the lands by way of wadſet upon, and rights of annualrent out of a part of the lands, in manner after mentioned, and with the burden of the redeeming and purging whereof, and relieving the diſponer of the requiſitions and penalties contained in the contracts of wadſet, and rights of annualrents made thereanent, completes and makes up the ſum of ——, as the whole price agreed and condeſcended upon betwixt them, for the heritable and irredeemable right of the haill lands and others after diſponed, with the pertinents; and of the which price, paid and to be paid, the way and manner foreſaid, the diſponer is to hold him well content, renounces all exceptions in the contrary, and diſcharges the acquirer for what now paid, for now and ever, and allowed him to pay the reſidue of the ſaid price not now paid and advanced, for clearing and purging the ſaid rights of wadſet and annualrents, in manner after expreſſed.* And ſo this draught differs in that from the former draught of the diſpoſition inſert.

2. After the words, *heritably and irredeemably*, in the diſpoſitive clauſe, *obligement to infeft*, and before, *acts, inſtruments and documents*, in the cloſe of the reſignation, ye ſhould add theſe words: *With the burden always of the clearing and purging of the wadſets and rights of annualrents after mentioned, and relieving the diſponer and his heirs and ſucceſſors thereof, and of the requiſitions and penalties contained in the ſaid rights, in manner after expreſſed.*

3. After the clauſe of abſolute warrandice, and theſe words, *at all hands, and againſt all deadly, as law will*, it is fit theſe wadſets and rights of annualrents be curtly, but neatly and faithfully, excepted out of the warrandice, condeſcending on the contracts, or other rights granted upon theſe ſums, by whom borrowed, to whom due, and dates of all the rights, whether contract or heritable bonds; and with this concluſion thereafter, "And "that in reſpect the ſaid ſums were deduced and allowed to the acquirer in the price, and "with the burden of the payment whereof, and relieving the diſponer and his foreſaids "of the ſame, and of the clauſes of requiſition therein ſpecified, and penalties therein "contained, this preſent right and diſpoſition is not only granted and accepted, and re"ſignation and infeftments appointed to follow thereupon, but alſo, the acquirer and his "heirs and ſucceſſors, would be expreſly and perſonally bound to perform the ſame, at "the expiration of the years of ſuſpenſion, or elapſing of the terms of payment mention"ed in the ſaid rights, and to report diſcharges and renunciations of the ſame, duly re"giſtered in the regiſter of ſeiſins, or to the acquirer and his heirs, *&c.* and likeways to "the diſponer and his, or to give them extracts thereof, and that under a penalty, attour "performance."

In the aſſignation to the writs and evidents, and mails and duties, and likeways before, *in witneſs whereof*, after the precept of ſeiſin, wherein advert, as to ward-lands, *ut ſupra*, ye may add theſe words curtly, (becauſe once, and after the warrandice, ſet down at large:) *And that with and under the burden of the ſaid wadſets and rights of annualrents, and purging and paying the ſame, and relieving the diſponer and his foreſaids thereof, and reporting to them ſufficient and valid diſcharges, and renunciations of the ſame, in manner above rehearſed.*

DISPOSITION

DISPOSITION *by a Gentleman of ſome Lands, whereof he was not only Proprietor, but alſo of the Parſonage and Vicarage-Teinds thereof, to which he had an heritable Right from the Laick Patron and Titular, in favours of* A. R. *a Magiſtrate in* P. *in Liferent, and his Son in Fee, and to the Heirs-Male of his Body; which failing, to the Heirs-Male and of Tailzie after ſpecified; with a Faculty to the Father, as after expreſſed.*

BE it known to all men, by theſe preſent letters, me ——— A. of ———, heritable proprietor of the lands, teinds, parſonage and vicarage thereof, and others after diſponed, with the pertinents: Foraſmuchas A. R. D. of ——— has inſtantly advanced, paid and delivered to me the ſum of ——— as the true and real price agreed upon betwixt him and me, for the heritable and irredeemable right of the ſaid lands, parſonage and vicarage-teinds thereof, and others after diſponed, with the pertinents; whereof I hold me well content, ſatisfied and paid, renounce all exceptions and objections in the contrary; and diſcharge him, his heirs, executors, and all others whom it effeirs of the ſame, for now and ever: Therefore, wit ye me to have ſold, annalzied and diſponed, likeas I, by theſe preſents, with and under the expreſs reſervations, proviſions, conditions, power and faculty, and reverſion after ſpecified, and no-other ways, ſell, annalzie and diſpone to the ſaid A. R. in liferent, during all the days of his lifetime, and to — R. his eldeſt lawful ſon in fee, and to the heirs-male of his body, which failing, to *(here were ſeveral other ſons* ſucceſſivè *downward, and heirs-male of their bodies, and failing of them, as the father pleaſed, and then followed)* together with all right, title, intereſt, *(in the ordinary ſtyle) &c.* and bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid A. R. in liferent, and the ſaid — R. his ſon and heirs-male of his body, which failing, his other heirs-male and of tailzie above mentioned, and their aſſignees, heritably and irredeemably, in the lands, teinds, and others above diſponed, with the pertinents; with and under the expreſs proviſions, conditions, declarations, reſervations, power, faculty and reverſion above expreſſed, and no otherways, and that by double infeftments, and manner of holdings, *à me* and *de me (follow the ordinary ſtyle in this, for the lands hold feu, and then ſay)* and to grant, ſubſcribe and deliver to them in liferent and fee *reſpectivè*, and with the conditions, reſervations and faculty above written, all rights and ſecurities requiſite and neceſſary thereanent, with warrandice always in manner under written; (the ſaid writs being drawn and formed, and the ſaid infeftments paſſed and expede upon the proper charges, moyen and expences of ———) And, for the better obtaining of the foreſaid infeftment by reſignation, but prejudice always of the other infeftment above rehearſed, I, by theſe preſents, make, conſtitute and ordain ——— and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevocable procurators and ſpecial errand-bearers, to the effect after ſpecified; giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge for me, in my name,

name, and upon my behalf, to compear before his ſacred Majeſty and royal ſucceſſors, ſuperiors of the ſaid lands, teinds, and others above diſponed, with the pertinents, lying as ſaid is, or their commiſſioners in their names, having their power to receive reſignations, and thereupon to grant new infeftments, any day and place lawful and convenient; and there, with all due humility and condign reverence as becomes, purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas I, by theſe preſents, reſign, ſurrender, overgive and deliver, all and haill the foreſaid juſt and equal half of the ſaid town and lands of C. with the other eighth part of the ſaid town and lands, houſes, biggings, yards, woods, dove-cots, graſings, parts, pendicles and pertinents thereof, lying as ſaid is, together with the teind-ſheaves thereof, and other teinds, as well parſonage as vicarage included; together alſo with all right, title, intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which I, or my foreſaids, had, have, or any ways may have, claim or pretend to the ſaid lands, teinds, and others foreſaid, or to any part or portion thereof, or to the mails and duties of the ſame, or to any annualrent, annuity, or other duty, yearly or termly, upliftable forth thereof, from the time after ſpecified of their entry thereto, in manner after mentioned, and thereafter in time coming, by whatſoever manner of way, in the hands of my ſaid ſuperiors, or their commiſſioners above mentioned, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid A. R. the father in liferent, and to the ſaid — R. his eldeſt lawful ſon in fee, and to the heirs-male of his body; which failing, to the other heirs-male and of tailzie above ſpecified, and their aſſignees, heritably and irredeemably, to be holden of the ſaid ſuperiors, in ſuch due and competent form as accords; but with this expreſs reſervation, proviſion, condition and declaration always, likeas it is hereby expreſly provided and declared, and be it ſo expreſly provided and declared, by the reſignation and infeftments to follow hereupon, that, notwithſtanding of the right of fee of the ſaid lands, teinds, and others foreſaid, taken by the ſaid A. R. the father, in the perſon of the ſaid — R. his eldeſt lawful ſon, and heirs-male of his body, which failing, of the remanent perſons mentioned in the ſaid ſubſtitution, and their foreſaids, heritably and irredeemably, as ſaid is; yet it ſhall be ſtill leiſome and lawful to, and in the power of the ſaid A. R. the father, at any time in his lifetime, *etiam in lecto ægritudinis, et in articulo mortis*, by himſelf alone, and without conſent of the ſaid —— R. his eldeſt ſon, or heirs-male of his body, or of the remanent perſons in the ſaid tailzie, and of their foreſaids, or of their tutors and curators, albeit minors for the time, to ſell, annalzie and diſpone the ſaid lands, teinds and others foreſaid, to any perſon or perſons he pleaſes, either in wadſet or irredeemably, in his option, and as they ſhall eſteem expedient; and to renounce the reverſion of the ſaid wadſets when granted, and to contract debt, and to burden and affect the ſaid lands and teinds therewith; and to grant perſonal bonds, or real ſecurities for that effect; and to provide his younger children with ſuch proviſions as he ſhall think fit; and to grant them ſecurities thereof, bearing annualrent and expences; and to grant liferent rights of the ſaid lands and teinds, or annuities or

annualrents forth thereof, to what perſon or perſons he ſhall think expedient, by infeftment, tack, or otherways, and for what duty he pleaſes; and to do every other thing in relation to the ſaid lands and teinds, diſpoſing thereof, or affecting the ſame, that he might do, had he not taken the right of fee thereof to his ſaid eldeſt ſon and his foreſaids, which failing, as ſaid is, but had taken the ſame in favours of himſelf, his heirs and aſſignees, heritably and irredeemably, and they, after his death, ſerved and retoured heirs to him therein, and thereby obliged to fulfil all his deeds; and with and under the which proviſions, condition, declaration, power and faculty reſerved to the ſaid A. R. the father, and conceived in his favours in manner foreſaid, the ſaid right of fee is granted and accepted, and no otherways; likeas by the acceptation hereof, the ſaid — R. the eldeſt ſon, and his foreſaids, which failing, as ſaid is, ſhall be holden and obliged to pay all the ſaid debts and proviſions, and to fulfil all the ſaid deeds, in the ſame manner as they would be obliged thereto, did they ſucceed to the ſaid lands and teinds as heir to the ſaid A. R. the father, in manner foreſaid. And further, it ſhall be leiſome and lawful to, and in the power of the ſaid A. R. the father, at any time in his lifetime, *etiamque in lecto ægritudinis*, if to him it ſhall ſeem ſo expedient, to redeem, looſe and out-quit the ſaid lands, teinds and others foreſaid, from his ſaid eldeſt ſon, and heirs-male of his ſaid body, which failing, from the other perſons contained in the ſaid tailzie and ſubſtitution, and their foreſaids, by real payment-making to them of one ſingle angel of gold, or ten merks Scots money, as the value and price thereof, upon lawful premonition of twenty-four hours of before, to be made by him to them for that effect, perſonally, or at the ſaid A. R. the father his own dwelling-houſe for the time, as place hereby appointed for that effect, in preſence of a notary and witneſſes, as effeirs; and the place of payment to be within ——— betwixt the hours of ten and twelve in the forenoon; and in caſe of their abſence, or wilful refuſal of the ſaid ſingle angel of gold, or value thereof aforeſaid, premonition being lawfully made to them as ſaid is, and without neceſſity of any premonition to be made to their tutors and curators, albeit minors for the time, as being hereby diſpenſed with, the ſame to be conſigned in the hands of any one of the baillies, dean of guild, or treaſurer of ———, or of any reſponſible gentleman within the ſhire of P. to be forthcoming to the ſaid — R. his eldeſt ſon, and heirs-male of his body, which failing, as ſaid is, upon the peril of the conſigner; and the ſaid ſingle angel of gold, or value thereof in money, in manner foreſaid, being ſo paid, or lawfully conſigned, as ſaid is, the ſaid lands, teinds, and others above diſponed, with the pertinents, to be holden as lawfully redeemed, looſed, out-quitted by the ſaid A. R. the father from them and their foreſaids, in all time thereafter; and which proviſion and condition of reverſion, and power and faculty above ſpecified, reſerved to the ſaid A. R. the father, and conceived in his favours, for uſing of the ſaid order of redemption, is hereby declared, and by the ſaid reſignation and infeftments, be it ſo declared, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if a particular letter of reverſion were duly and lawfully made, ſealed, ſubſcribed and delivered by the foresaid

named

named persons, to the effect foresaid, and registered apart, with all solemnities requisite, conform to the act of parliament, albeit not so done; whereanent also dispenses for ever, and that without any necessity of declarator to follow thereupon; only, in case the said order be used, and thereby redemption made, and the said A. R. the father dispose otherways of the said lands and teinds, they are not to be liable in payment of his said debts, or fulfilling of any of his deeds; and upon the which provision and condition of reversion, power and faculty aforesaid, for using of the said order of redemption, the foresaid right of fee is taken by the said A. R. in the person of his said eldest son, and heirs-male of his body, which failing, as said is, and no otherways, acts, instruments and documents, one or more, as need beis, in the premisses to ask and raise, and generally all and sundry other things thereanent to do, use and exerce, sicklike, and as freely in all respects, as I might do therein myself, if I were personally present; promising to hold firm and stable, *&c.* and which infeftments, and either of them, shall bear and contain this express clause of warrandice following: Likeas, now as if the said infeftments were already made and passed, and then as now, I faithfully bind and oblige me, my heirs and successors, to warrant, acquit and defend the foresaid right and disposition, resignation and infeftments to follow thereupon, and lands above written, with the pertinents therein contained, to be sufficient, free, safe and sure to the said A. R. and to his eldest son, and his foresaids, which failing, as said is, with and under the express reservations, provisions, conditions, declarations, power and faculty above mentioned, conceived in favours of the said A. R. and no otherways, from all and sundry wards, reliefs, non-entries, marriages, escheats, liferents, forfeitures, inhibitions, interdictions, apprisings, adjudications, recognitions, disclamations, purprestures, conjunct fees, liferents, ladies terces, reductions of infeftments, services and retours, annualrents, former alienations, private and publick infeftments, and all other perils, burdens, dangers and inconveniencies whatsoever, as well not named as named, bygone, present as to come, which may any ways stop, trouble, or impede the said A. R. and his said son, and his foresaids, which failing, as said is, in the peaceable possession of the said lands and others foresaid, in any time coming, at all hands, and against all deadly; and to warrant, acquit and defend the foresaid right and disposition of the said teinds, from my own and my father and grandfather their proper facts and deeds done, or to be done, in prejudice hereof allenarly. And for their farther security thereanent, I oblige me and my foresaids, to purge and clear the said lands of all real incumbrances that shall be found to burden and affect the same, by registers, or otherways, and that either by discharges or renunciations thereof, or consents in writ to this present right from the persons havers of the said burdens and incumbrances. And in like manner, I hereby assign, transfer and dispone in favours of the said A. R. and his eldest son and his foresaids, which failing, as said is, in liferent and fee *respective*, but with and under the express reservation, provisions, conditions, declarations, reversion, power and faculty above mentioned; conceived in favours of the said A. R. the father, and no otherways, all and sundry contracts, dispositions, charters, infeftments, procuratories

and inſtruments of reſignation, clauſes of warrandice, precepts and inſtruments of ſeiſin, ſervices, retours, precepts thereon, and ſeiſins on the ſaid precepts, appriſings, adjudications, allowances and approbations written on the back thereof, grounds and warrants of the ſame, ſums of money therein contained, and thereby due of the law, infeftments following, or competent to follow thereupon, and all other writs, evidents, rights, titles and ſecurities, of whatſoever dates, tenors or contents, nature or quality the ſame be of, made and granted by whatſoever perſon or perſons, to me, my predeceſſors, cedents and authors, or led, deduced or obtained at our, or either of our inſtances, or any ways introduced and conceived in our or either of our favours, of, upon, or concerning the ſaid lands, teinds and others above diſponed, with the pertinents, in ſo far as may be extended thereto allenarly, but no ways as to any other lands or teinds that may be contained in the ſaid right, and not hereby particularly diſponed, and all action, purſuits and inſtance, competent, or that may be competent to me or my foreſaids thereupon, with all that has followed, or may follow on the ſame; and I have ſurrogated, and by theſe preſents ſurrogate and ſubſtitute them in the terms foreſaid, and in ſo far as may be extended, as ſaid is, in my full right, vice and place of the premiſſes, for now and ever. And likeways, I hereby make, conſtitute and ordain them, in liferent and fee *reſpectivè*, and with and under the ſame reſervations, proviſions, conditions, declarations, reverſion, power and faculty above mentioned, conceived in favours of the ſaid A. R. the father, as ſaid is, my undoubted ceſſioners and aſſignees, in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands, teinds, and others above diſponed, with the pertinents, of the crop and year of God —— years, and haill terms thereof, and yearly and termly thereafter in all time coming, and all action competent thereupon, for now and ever; with full power to them, in liferent and fee *reſpectivè*, and in the terms aforeſaid, to intromit with, uplift, aſk, crave and receive the foreſaid mails, farms, kains, cuſtoms, caſualties, profits, duties, and others above aſſigned, and to uſe and diſpoſe thereupon at pleaſure, and to call and purſue therefor, before whatſoever judge or judges competent, and to ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, and the ſame to due execution cauſe be put, and to do what elſe I might do therein myſelf before the granting of theſe preſents. And I bind and oblige me, and my foreſaids, to warrant the foreſaid aſſignation and right to the ſaid writs and evidents of the ſaid lands, at all hands, and the right of the ſaid teinds from my own father and grandfather our facts and deeds, as ſaid is; and in caſe any defect be found in the ſaid progreſs, to make up the ſame ſufficiently, at the ſight, and by the advice of lawyers; as alſo, to warrant the ſaid diſpoſition and aſſignation to the ſaid mails and duties, from my own proper fact and deed allenarly, done, or to be done in prejudice thereof. And ſicklike, I oblige me and my foreſaids, to warrant and relieve them of all ceſſes, taxations, and other impoſitions, miniſters and ſchoolmaſters ſtipends, reparation of kirks and kirk-yard dykes, and feu-duties, blench-duties, and other duties, if any be, due and payable to king, kirk, or other perſon or perſons, forth of the ſaid lands

and

and teinds, and that of all years and terms preceding the term of ———, being the term of their entry *inclusivè*, at all hands, having, claiming, or pretending to have intereſt thereto, and to make the diſcharges thereof forthcoming to them, when requiſite and required; and if, through want thereof, they be diſtreſſed, and forced to make payment, to reimburſe them therein, *cum omni damno*, they always relieving me and my foreſaids of the like, after their ſaid entry, in time coming. And becauſe the ſaid lands and teinds may be ceſſed *in cumulo* with my other eſtate, I oblige me and my foreſaids to divide the ſame upon the whole, equally and proportionally in the valuation-books of the ſhire, effeiring to my other rent, and that now diſponed: Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, or others competent, to have the ſtrength of a decreet of the Lords or judges thereof interponed thereto, that letters of horning, and others neceſſary, in form as effeirs, may paſs hereon; and conſtitute ——— my procurators, *&c.* Attour, to the effect the ſaid A. R. and the ſaid — R. his eldeſt ſon, may be lawfully infeft in the ſaid lands and others foreſaid, to be holden *à me* or *de me*, as ſaid is, and in liferent and fee *reſpectivè*, I, by theſe preſents, make, conſtitute and ordain ——— or any one of you, my baillies in that part, ſpecially conſtitute, to the effect after ſpecified; with power to paſs to the ground of the ſaid lands and others foreſaid, and there give liferent ſtate and ſeiſin, and alſo heritable ſtate and ſeiſin *reſpectivè*, actual, real and peaceable poſſeſſion of the ſaid lands, parſonage and vicarge-teinds, houſes, biggings, yards, woods, dove-cots, graſings, and others particularly and generally above diſponed, with the pertinents, lying as ſaid is, and all here holden as for expreſſed *brevitatis cauſa*, to the ſaid A. R. the father in liferent, and to the ſaid — R. his eldeſt lawful ſon in fee, and that by deliverance to them, or their attorney in their names, bearer of theſe preſents, of earth and ſtone of the ſaid lands, and an handful of corn for the ſaid teinds, upon the ground of the ſaid lands, as uſe is; and this on no ways ye leave undone: The which to do, gives full power thereanent, by this my precept of ſeiſin granted for that effect, and with and under the expreſs proviſions, conditions, declarations, reſervations, power and faculty above mentioned, and no otherways, and all here holden as for expreſſed *brevitatis cauſa*. In witneſs whereof, I have ſubſcribed theſe preſents, written by ———, with my hand, at ——— the ——— day of ——— ——— years, before theſe witneſſes,

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DISPOSITION *of an Appriſing, whereupon Infeftment followed.*

BE it known to all men, by theſe preſent letters, me A. B. ———: Foraſmuchas by decreet and proceſs of appriſing, led and deduced within the new ſeſſion-houſe of Edinburgh, before J. H. meſſenger, judge and ſheriff in that part, and his colleague, upon the ——— day of ——— ——— years, I obtained, lawfully appriſed to me, my heirs and aſſignees whatſoever, heritably, from

from W. M. of ——— and his heirs and ſucceſſors, and all others having, or pretending to have intereſt in the matter, all and ſundry the lands and others after ſpecified, with the pertinents, *viz. (here inſert the lands and others in the appriſing, as they are ſet down in the denunciation, and where they ly, and then ſay)* for payment and ſatisfaction to me and my foreſaids, of the ſums of money, principal, annualrents and expences contained in the decreet of appriſing led and deduced thereanent, extending at the term of ——— to the ſum of ——— Scots money, and that as for the principal, and of the ſum of ——— money foreſaid of theriff-fee, *ſalvo juſto calculo*, in both the ſaid ſums; and which appriſing was allowed by the Lords of council and ſeſſion, and by them found orderly proceeded, in manner written on the back thereof, upon the ——— day of ——— (14); likeas, conform to the ſaid appriſing, and charter following thereupon under the great ſeal, dated the ——— day of ——— ——— years, I was, upon the ——— day of ——— thereafter lawfully infeft in the ſaid lands and (6) others above appriſed, with the pertinents, and my ſeiſin duly regiſtered, conform to the act of parliment (7), as the ſaid decreet and proceſs of appriſing, of the date foreſaid, and allowed, as ſaid is, with the charter and ſeiſin following thereupon, in themſelves more fully proport (15). And now ſeeing (8) W. F. of ——— has inſtantly made payment to me of a certain ſum of money, for making and granting of theſe preſents, whereof I hold me well content, ſatisfied and paid, renounce all exceptions and objections in the contrary, and diſcharge the ſaid W. F. his heirs, executors, and all others whom it effeirs of the ſame, for now and ever: Therefore, wit ye me, as having right, in manner foreſaid, to have ſold, annalzied and diſponed, likeas I, by theſe preſents, ſell, annalzie and diſpone to the ſaid W. F. his heirs and aſſignees whatſoever, heritably, under reverſion, conform to the act of parliament, all and ſundry the lands and others above and after ſpecified, *viz. (here inſert the lands and others appriſed* ut ſupra; *but if there be tenements, or the like, with long boundings, ye may abbreviate the ſame, by omitting the ſaid bounding, and in place thereof, add,* bounded in manner above expreſſed, and here holden as for expreſſed *brevitatis cauſa, and then ſay)* with all right, title and intereſt I have, or pretend thereto in time coming (16). And I bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid W. F. and his foreſaids heritably therein, under reverſion, as ſaid is, and that (9) by double infeftments and manner of holdings, the one thereof to be holden of me and my foreſaids in free blench, for payment of a penny Scots money upon the ground of the ſaid lands, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly; and the other of the ſaid infeftments to be holden from me and my foreſaids, of my immediate lawful ſuperiors thereof, ſicklike, and as freely in all reſpects, as I hold, or may hold the ſame myſelf, and that by reſignation or confirmation in their option, and the one but prejudice of the other; and to grant all rights and ſecurities requiſite thereanent, with warrandice always, in manner under written, and all being done and expede on their own charges, moyen and expences. And for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of

the

the other infeftment above written, I, by theſe preſents, make, conſtitute and ordain ——— or any one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevocable procurators, to the effect after ſpecified; giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge for me, in my name, and upon my behalf, to compear before (10) my lawful ſuperiors of the ſaid lands and others (11) above appriſed and diſponed, with the pertinents, lying as ſaid is, or their commiſſioners in their names, having their power to receive reſignations, and thereupon to grant new infeftments, in manner foreſaid, and that any day and place lawful and convenient; and there, with all due humility and condign reverence as becomes, purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas I, by theſe preſents, reſign, ſurrender, overgive and deliver, all and ſundry (12) the foreſaid towns, lands, mills, mill-lands, teinds, fiſhings, and others particularly and generally above ſpecified, with the pertinents, lying as ſaid is, and all here holden as for expreſſed *brevitatis cauſa*; together with the teinds parſonage and vicarage thereof, and all right I have, or can pretend thereto, in manner foreſaid, in the hands of my ſaid ſuperiors, or their commiſſioners above mentioned, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid W. F. and his foreſaids, heritably, under reverſion, in manner above expreſſed, to be holden of the ſaid ſuperiors, in ſuch due and competent form as accords, acts, inſtruments and documents, *&c.* (*Inſert the common ſtyle, and then ſay*) And for the ſaid W. F. and his foreſaids their farther ſecurity thereanent, I, by theſe preſents, aſſign, transfer and diſpone in their favours the foreſaid decreet and proceſs of appriſing, allowance and approbation written on the back thereof, grounds and warrants whereupon the ſame proceeded (17), charter and ſeiſin following on the ſaid appriſing, and haill execution and diligence that on the ſaid appriſing, and ground thereof have enſued, and ſums of money therein contained, and thereby due of the law, with the haill charges and expences paid out and deburſed in leading and deducing of the ſaid appriſing, paſſing infeftment thereupon, or otherways, in proſecution of the right thereof; together with the annuals of all the ſaid ſums, or in their option, the mails and duties of the ſaid lands and others foreſaid, ſince the leading and deducing of the ſaid appriſing, and in time coming during the not-redemption, and all action competent thereupon for ever; with full power to the ſaid W. F. and his foreſaids (18) to intromit with, uplift, aſk, crave and receive the foreſaid ſums of money above aſſigned, transferred and diſponed, with the annuals thereof, or in their option, the mails and duties of the ſaid lands and others above appriſed and diſponed, with the pertinents, bygone ſince the leading of the ſaid appriſing, and in time coming during the not-redemption, and to charge and purſue therefor, and for exhibition, production, delivering, implement and fulfilling to them of the writs and evidents of the ſaid lands, teinds and others foreſaid, and that before any judge or judges competent, ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, and the ſame to due and lawful execution cauſe be put,

compone,

compone, tranſact and agree thereanent; and upon payments, acquittances, diſcharges, renunciations and grants of redemption, to make, grant, ſubſcribe and deliver, which ſhall be ſufficient to the receivers, and to do what elſe I might do therein myſelf before the granting of theſe preſents. And I bind and oblige me and my foreſaids, to warrant the ſaid right and diſpoſition, reſignations and infeftments to follow thereupon, lands and others therein contained, and ſums of money above aſſigned to the ſaid W. F. and his foreſaids, from my own proper fact and deed allenarly: That is to ſay, that I have not made, nor ſhall not make any other diſpoſition or right, or yet diſcharge or renunciation of the premiſſes to no other perſon or perſons, in prejudice hereof, at no time bygone or to come; likeas, I have inſtantly delivered to the ſaid W. F. the foreſaid decreet of appriſing, with the haill grounds and warrants thereof, and charters and ſeiſin following thereupon, to be kept and uſed by him and his foreſaids, as their own proper evidents, at their pleaſure in time coming. *(After this, inſert a clauſe of regiſtration and precept of ſeiſin, according to the common ſtyle; only, before* in witneſs whereof, *add theſe words*; Redeemable always, and under reverſion, in manner above expreſſed; *and then conclude with)* In witneſs whereof, I have ſubſcribed theſe preſents, (written by ———,) with my hand, at ——— the —— day of ——— —— years, before theſe witneſſes,

Nota, At times, ſubjects are ſuperiors, and not the King; and at other times, the King is ſuperior of a part of the lands, and a ſubject ſuperior of ſome other lands; and at other times there be tenements and lands within burgh, which alſo hold of the King *in libero burgagio*, whereof the magiſtrates of the burgh give ſeiſin, and the town-clerk notary thereto: And I ſhall ſuppoſe all thoſe caſes to hold, for your better information, and how to alter the ſtyle, when the ſame falls out, and a diſpoſition of that nature occurs; and therefore, leave out, in the narrative, from the figure (6) to the figure (7), and in place thereof, conceive the ſtyle after the figure (6) thus: "Of ——" (meaning the lands holden of his Majeſty, not burgage) "and by virtue of another charter granted to me by "J. D. of ——— as ſuperior of the ſaid lands of ———, with the pertinents, dated the "ſaid charter, the ——— day of ——— ——— years, I was, upon the ——— day of "——— lawfully infeft therein; and upon the —— day of ——— —— years, "I was lawfully infeft by the magiſtrates of the ſaid burgh of ——— in the ſaid tene"ments of land, and others foreſaid, lying within the ſaid burgh, and my reſpective ſei"ſins duly regiſtered, conform to the act of parliament, as the ſaid decreet of appriſing, "of the date foreſaid, duly allowed, as ſaid is, and charters and ſeiſins following there"upon, in themſelves more fully proport. And now ſeeing" (here follow forth the former draught or ſtyle from the figure (8) till ye come to the figure (9) and then ſay) "and that "in manner following, *viz.* In the ſaid tenements, and others above appriſed, with the per"tinents, lying within the ſaid burgh of ———, and holden of his Majeſty *in libero* "*burgagio*, as ſaid is, by reſignation in the magiſtrates of the ſaid burgh their hands, in "manner under written, and in the haill remanent lands and others above appriſed, with "the pertinents, lying in manner foreſaid." (Now begin where ye laſt left, figure (9), and continue the former ſtyle, until ye come to the figure (10), and then ſay) "the pro"voſt, or any one of the baillies of the ſaid burgh of ———, preſent or to come, as "before his ſacred Majeſty, or royal ſucceſſors, lawful ſuperiors of the ſaid tenements, "booths, yards, and others, lying within the ſaid burgh of ———, and alſo before my "lawful ſuperiors of the ſaid other lands and others." (Begin now at the ſtyle, figure (11), and continue till ye come to the figure (12), and then ſay) "the foreſaid tenements,

"booths,

" booths, yards, and others, with the pertinents, lying within the ſaid burgh of ——, " and bounded in manner above expreſſed, in the hands of the ſaid provoſt, or any one of " the ſaid baillies of the ſaid burgh of ——, preſent or to come, as in the hands of " his Majeſty and royal ſucceſſors, ſuperiors thereof; and ſicklike, reſign, ſurrender, over- " give and deliver, likeas I, by theſe preſents, reſign, ſurrender, overgive and deliver all " and ſundry the foreſaid other" (Go back now to the figure (12) and then continue *uſque ad finem*; only obſerve, that, whereas the ſtyle of the former diſpoſition bears, in the aſſignation to the appriſing, " charter and ſeiſin following thereupon," ye muſt in this ſay in the plural number, " charters and ſeiſins." As alſo, in the delivery of the writs, let the ſame words be uſed in the plural number; and in the precept of ſeiſin omit the burgage lands, becauſe thoſe muſt only go by reſignation, and not by double infeftments, as the other lands paſs.

The next caſe to be ſuppoſed is, that the appriſer was not infeft, and how far that differs from the former diſpoſition in ſtyle; and it is thus: Ye muſt leave out from the figure (14) to the figure (15), and at the (15) begin again, and write until ye come to the figure (16), and then paſs all till ye come to the figure (17), and after that omit " charter and " ſeiſin following thereupon;" for, as the caſe is now ſuppoſed, there was none; and after that follow forth the former ſtyle, till ye come to the figure (18), and then add theſe words: " To obtain themſelves infeft in the lands and others above appriſed, with the " pertinents, as accords of the law;" (and then ſay) " and to intromit with," as in the former ſtyle, *uſque ad finem*, but with the former alterations, and no precept of ſeiſin at all; for the gentleman who acquires the right of the appriſing, muſt be infeft, the way and manner ſet down in the former ſtyles, whether holden of the King, being field-land, and ſo *per modum ſignaturæ*; or of the King *in libero burgagio*, as to tenements, *&c.* and ſo by the magiſtrates of the burgh; or holden of other ſuperiors, and ſo by charter, containing precept of ſeiſin, and whereupon ſeiſin follows. And ſo much as to thoſe points.

As for lands that fall in the King's hands by recognition, forfeiture, or *ultimus hæres*, when diſponed to perſons who are called donatars, and they infeft accordingly, whether by ſignature expede the ſeals, if the lands hold of the King, as they muſt, if fallen by recognition; and likeways ſo muſt the lands that fall by forfeiture, or *ultimus hæres* in the King's hands, if holden of his Majeſty *in capite*, and not of a ſubject; for if of a ſubject, they, (I mean that of *ultimus hæres* and baſtardy) paſs by ſignature, and under the quarter ſeal, as has been formerly obſerved: But whether the one way or the other, if the donatars be once infeft, they may diſpone as heritable proprietors, in the ordinary way of diſpoſitions, with an obligement to infeft by double infeftments, except that of ward lands, which would only go by reſignation, as has been ſaid, and that holden burgage alſo, procuratory of reſignation, aſſignation to the writs and evidents, and particularly to the diſponer's title, whether as having right by recognition, forfeiture, or *ultimus hæres*; and then an aſſignation to the mails and duties, rights of the teinds; and the words, *with full power*, would bear expreſly, to call for exhibition, production, delivery, implement and fulfilling of the writs and evidents; and the clauſe of warrandice conceived as agreed upon betwixt the parties. And, in the *laſt* place, the clauſe of regiſtration and precept of ſeiſin follows, omitting ward lands, whether ſimple or taxed, and burgage lands, if any be; for thoſe ſhould only paſs by reſignation, as has been frequently enjoined.

Next thing I propoſe, is a conveyance by diſpoſition of lands, adjudged upon the late act of parliament, in place of compriſings, and whereupon infeftment followed, but curtly, in the draught, becauſe of the former diſpoſition of an appriſing, whereupon infeftment followed, and to which it has relation, *mutatis mutandis*.

DISPOSITION *of an Adjudication of Lands, &c. in Place of Apprisings, and whereupon Infeftment followed.*

BE it known to all men, by these present letters, me A. B. of ———: Forasmuchas I obtained a decreet of adjudication at my instance, before the Lords of council and session, upon the —— day of ——— ——— years, conform to, and in the terms of the late act of parliament, made anent adjudications in place of apprisings, against C. D. of ———, and superiors therein mentioned, for their interest, adjudging, decerning and declaring, *(here insert all the lands, teinds, with the rights of the writs and evidents thereof, and all reversions, legal and conventional, &c. in the very terms of the decerniture; and if the decerniture be only general, referring what adjudged to the summons, as above narrated, then take in as above; and then the general clause, with the writs, &c. reversions, &c. as in the decerniture, and then say)* to pertain and belong to me, my heirs and assignees whatsoever, heritably, for payment and satisfaction to me and my foresaids, of the sums of money, principal, annualrents and expences contained in the said decreet of adjudication, extending at ——— to the sum of ——— Scots money. *(And if any more be added in the decreet, as annualrent of the said accumulate sum, sinceſyne, and in time coming, during the not-redemption, attour the composition to the superiors, and expences of the infeftments, as most decreets do, let it be insert also, and then say)* and the said Lords ordained me and my foresaids to be heritably infeft and seised in the said lands and others above adjudged, with the pertinents, to be holden of the superiors therein named, and in manner therein expressed, and under reversion, as therein rehearsed; and which decreet of adjudication was duly allowed by the said Lords the —— day of ——— and conform whereunto, and charter following thereupon under the great seal, dated the —— day of ——— ——— years, I was, upon the —— day of ——— lawfully infeft in the said lands and others above adjudged, with the pertinents, and my seisin duly registered, as the said decreet of adjudication, duly allowed as said is, charter and seisin following thereupon, in themselves more fully proport. And now seeing *(here follow forth the style of the former disposition of an apprising, whereupon infeftment followed,* usque ad finem; *only with this alteration, that wherever the word* appriſed *is mentioned, make it* adjudication, *or* above adjudged, *and the like, as congruity in verb, declination or construction will easily lead you.)*

Nota, If there be lands holden of other superiors, as well as of the King, or lands within burgh that hold of the King, as well as there be other lands in the country that hold of his Majesty, yea, lands, tenements, and others, holden all these ways, or whether the adjudger be infeft or not; and if infeft, ye have a rule set down; and if not infeft, ye have the like set down; and I remit you to the respective cases and draughts of a disposition conform, and as they occur.

There is another kind of adjudication, and that is, when an apparent heir is pursued for his predecessor's debt; and, finding the subject-matter will not pay the debt, the heir renounces; and upon this, is assoilzied from the pursuit, but decerned against *cognitionis causa*,

ſa, and thereupon adjudication follows; and in the ſummons of adjudication, the ſuperiors, if ſubjects, are convened; and if the King be ſuperior, the miniſters of ſtate are convened therein for his Majeſty's intereſt. And whether infeftment follow or not, I need ſet down no ſtyle of the diſpoſition, for it differs in nothing from what has been ſaid, in the draught immediately preceding of the former adjudication; I mean, as to the diſpoſitive part, obligement to infeft in all the caſes, ſhould there be lands holden of the King, and other ſuperiors, and ſome burgage alſo, procuratory of reſignation, aſſignation to the adjudication, *&c.* mails and duties, or annualrents from the date of the adjudication, and during the not redemption, the words *with full power*, and what after follows, regiſtration, precept of ſeiſin, and all; only ye muſt notice, when the lands only hold of the King, (being field-land) or if burgage, or if of other ſuperiors alſo; and walk ſuitably, according to the former injunctions. And in the *laſt* place, conſider that the narrative of this diſpoſition of an adjudication, againſt an apparent heir, renouncing, differs from the former adjudication upon the act of parliament; and therefore I have ſet down the narrative, but curtly, in this place; what formerly enjoined being ſufficient to convey the right, after *and now ſeeing*, being the ſubſumption of the draught, and immediately after the narrative.

DISPOSITION *of an Adjudication againſt an apparent Heir, renouncing. Lands holden of the King, and other Superiors, and partly of the King burgage.*

BE it known to all men, by theſe preſent letters, me A. B. of ——: Forasmuchas the deceaſed C. D. of ——, by his bond, dated the —— day of —— —— years, for the cauſes therein ſpecified, bound and obliged him, his heirs, executors, ſucceſſors to him in his lands and heritages, and intromitters with his goods and gear whatſoever, to have contented and paid to me, my heirs, executors and aſſignees, the ſum of —— Scots money of principal, with the annualrent thereof, from —— to the term of payment under written, and that betwixt and the term of —— then next, but longer delay; with the ſum of —— money foreſaid of liquidate expences, in caſe of failzie; together with the ordinary annualrent of the ſaid principal ſum, conform to the act of parliament, and that yearly, termly and continually, during the not-payment thereof after the ſaid term, as the ſaid obligation, of the date foreſaid, (*if regiſtered, inſert the ſame*) in itſelf more fully proports. Whereupon I raiſed ſummons, and intented action at my inſtance, before the Lords of council and ſeſſion, againſt W. D. eldeſt lawful ſon to the ſaid C. D. of —— as lawfully charged to enter heir to him, and upon the remanent paſſive titles, and againſt his tutors and curators, for their intereſt, for payment to me of the foreſaid ſums contained in the ſaid bond; and which ſummons being duly executed, and oft and divers times called in preſence of the ſaid Lords, and laſt of all upon the —— day of —— —— years, and I compearing by —— my advocate, as procurator for me; who, for inſtructing of the ſaid debt, produced in preſence of the ſaid Lords the ſaid bond founded upon; and thereafter declared, that he inſiſted againſt the ſaid W. D. as lawfully charged to enter heir to his ſaid deceaſed father, and his ſaid tutors and curators, for their intereſt, and paſſed

from the other paſſive titles *pro loco et tempore;* and for inſtructing of the ſaid paſſive title inſiſted upon, produced the letters of general charge to enter heir, raiſed at my inſtance againſt the ſaid W. D. with the executions thereof, bearing him and his ſaid tutors and curators, to have been lawfully charged, by a meſſenger at arms, to have entered him heir to his ſaid deceaſed father, in manner, within the ſpace, to the effect, and with certification ſpecified in the ſaid letters and executions, and thereafter craved ſentence conform to his ſaid ſummons, and deſire thereof. And the ſaid W. D. and his ſaid tutors and curators, compearing by ——— advocate, as procurator for them, craved a day to renounce; and that the ſaid W. D. might be aſſoilzied from the ſaid purſuit. All which being taken by the ſaid Lords to conſideration, they aſſigned to the defenders and their ſaid procurator a certain day to renounce, as ſaid is, as an act made thereupon bears: And the ſaid day being elapſed, and the ſaid act called, the defenders produced the ſaid renunciation, dated the ——— day of ———, whereby the ſaid W. D. and his ſaid tutors and curators, renounced his being heir to his ſaid father, in manner more fully therein expreſſed. Which being conſidered by the ſaid Lords, they, by their decreet, dated the —— day of —— —— years, aſſoilzied the ſaid W. D. from the ſaid ſummons, and deſire thereof, and the paſſive title inſiſted upon, and his ſaid tutors and curators, for their intereſts; and yet, notwithſtanding thereof, decerned againſt him and them, *cognitionis cauſa tantum, et contra hæreditatem jacentem, et bona mobilia*, and other goods and gear belonging to the defunct, to the effect adjudication might follow thereupon, in manner more fully ſpecified in the ſaid decreet *cognitionis cauſa*, as the ſame in itſelf alſo more fully is contained; whereupon I raiſed ſummons, and intented action of adjudication at my inſtance before the ſaid Lords againſt the ſaid W. D. as he who was lawfully charged to enter heir, and yet renounced to be heir to his ſaid deceaſed father, as ſaid is; and his ſaid tutors and curators, for their intereſt, and the miniſters of ſtate, for his Majeſty's intereſt, as ſuperior of a part of the lands to be adjudged, and alſo againſt the ſuperiors of ſome of the other lands, and the magiſtrates of ——— as to ſome of the lands holden burgage; and all others having, or pretending to have intereſt in the matter. And which ſummons and action of adjudication, being oft and divers times called in preſence of the ſaid Lords, and laſt of all upon the —— day of ——— ——— years, they, by their decreet then given and pronounced by them in the ſaid matter, adjudged all and haill the lands and others after ſpecified, *viz. (here take in ſuch as hold of the King, and where they ly, with the teinds, if adjudged, and then ſay)* and alſo all and haill the lands and others after mentioned, *viz. (here take in the lands and others holden of the other ſuperiors, who would be particularly named, and what holden of each of them diſtinguiſhed, and where they ly, with the teinds, if adjudged, and then ſay)* and in like manner, all and haill *(here inſert the tenements, and others, lying within the burgh of ——— and their bounding, holden of his Majeſty burgage, and then ſay)* together with the writs and evidents of the ſaid haill lands and others foreſaid, and mails and duties of the ſame, of the crop and year ———, and thereafter in time coming, during the not-

not redemption, with certain reverſions, legal and conventional, therein contained, from the ſaid W. D. as lawfully charged to enter heir, and who renounced to be heir to his ſaid deceaſed father, as ſaid is, and from his heirs and ſucceſſors, tutors and curators, and all others having, or pretending to have intereſt, to and in favours of me, my heirs and aſſignees whatſoever, heritably; and decerned and declared the ſame to pertain and belong to us thereafter in time coming, for payment to us (*here inſert the ſums, as in the decerniture, and then ſay*) and ordained us to be heritably infeft in the ſaid lands and others above adjudged, by the reſpective ſuperiors and magiſtrates of the ſaid burgh, under reverſion, conform to the act of parliament; and conform to the which adjudication, and charter under the great ſeal, and charters granted by the other ſuperiors, I ſtand infeft in what holden of them; and likeways am infeft by the magiſtrates of the ſaid burgh in the reſpective lands, tenements and others foreſaid, and my ſeiſins duly regiſtered, as the ſaid decreet of adjudication, charters and ſeiſins following thereupon, in themſelves more fully proport. And now ſeeing (*after this follow forth the ſtyle of the diſpoſition, as formerly enjoined.*)

DISPOSITION *of the Annuity of Teinds, by the* E. *of* L. *to* M. W. F. *of* K.

BE it known to all men by theſe preſent letters, W. S. J. E. of L. *&c.* Foraſmuch as the annuity which was due and payable to our deceaſt Sovereign Lord, King Charles I. of ever bleſſed memory, and his Majeſty's ſucceſſors, forth of the teinds within the kingdom of Scotland, was lawfully eſtabliſhed in his Majeſty's perſon, by an act of his Majeſty's parliament, holden at Edinburgh in the month of June 1633, cap. 15. with expreſs condition and declaration; likeas our ſaid deceaſed Sovereign Lord, in the ſaid parliament, declared, that his Majeſty, for the good and eaſe of his Majeſty's ſubjects, did take to his Majeſty's conſideration, what he would do with the ſaid annuity of teinds; and howſoever his Majeſty ſhall do thereanent, it is declared by the ſaid act, that the ſame ſhall be as valid and ſufficient, as if it were particularly expreſſed therein, as the ſaid act of parliament at more length bears: Likeas our ſaid deceaſed Sovereign Lord, King Charles I. of ever bleſſed memory, by his commiſſion under the great and privy ſeals, of the date, at York, the 7th day of May 1642 years, gave full power and commiſſion to the deceaſed J. E. of L. our father, with the advice and conſent therein ſpecified, to ſell, annalzie, heritably diſpone and renounce the foreſaid annuity, with all right competent, or that might be competent to his Majeſty, or his Majeſty's ſucceſſors to the ſame; and our ſaid deceaſed Sovereign Lord, for himſelf, and his Majeſty's ſucceſſors, declared, that the ſaid diſpoſitions and renunciations, ſhould be good and valid, and perfect ſecurities to the receivers thereof, for their liberation and exoneration of the ſaid annuity, of all years bygone and to come, as in the foreſaid commiſſion more fully is contained: Likeas, our Sovereign Lord

Lord the King's Majeſty, who now reigns, by his ratification and new gift, under his Majeſty's royal hand, of the date at Whitehall, the 17th of Auguſt 1660 years, did ratify and renew the foreſaid commiſſion, granted by his Majeſty's deceaſed dear father, in favours of the ſaid deceaſed J. E. of L. our father, in the haill heads and clauſes thereof, as the ſaid ratification in itſelf more fully is contained; and ſicklike, our ſaid Sovereign Lord, conſidering that by the deceaſe of the ſaid J. E. of L. our father, the foreſaid commiſſion granted to him was like to be fruſtrated and diſappointed, and his Majeſty conceiving it neceſſary, for the good and furtherance of his Majeſty's ſervice, that his Majeſty of new, freely granted and committed to us the ſaid J. E. of L. the power and commiſſion after ſpecified; therefore, our ſaid Sovereign Lord, who now reigns, by his commiſſion under his royal hand, paſſed in exchequer, and expede under his Majeſty's great ſeal, of the date at Whitehall, the 12th day of May 1671 years, of new, freely granted and committed full power and commiſſion to us the ſaid J. E. of L. with advice and conſent of his Majeſty's commiſſioners of exchequer for the time being, or any two of them, to ſell, annalzie and diſpone, heritably, the foreſaid annuity of teinds, to his Majeſty's ſubjects, their heirs and aſſignees, and alſo to make, grant and ſubſcribe, and deliver diſpoſitions and renunciations to the buyers thereof, which diſpoſitions and renunciations, his Majeſty, by the foreſaid commiſſion, for him and his Majeſty's ſucceſſors, declares to be good, valid and ſufficient ſecurities to the receivers thereof, their heirs and ſucceſſors, for their full liberation and exoneration of the foreſaid annuity of teinds, to be bought by them, as ſaid is, and that for all years bygone, and yearly in time coming for ever, as the ſaid commiſſion at more length bears. And now ſeeing, I, with advice and conſent of the commiſſioners of his Majeſty's exchequer, have ſettled and agreed with Mr. W. F. of K. for the ſum of —— Scots money, for the annuity due and payable to our ſaid Sovereign Lord, or to his Majeſty's ſaid umquhile father, forth of the teinds of the lands under written, for all years bygone, and alſo for the heritable right of the ſame, of the which ſum I grant the receipt, and holds me well content, ſatisfied and paid, and exoners and diſcharges the ſaid M. W. F. of K. and his heirs and executors, and all others whom it effeirs, of the ſame; renouncing all exceptions in the contrary, for now and ever: Therefore, wit ye me, with advice and conſent of the commiſſioners of his Majeſty's exchequer, under ſubſcribing, to have ſöld, annalzied, diſponed and renounced, likeas I, by the tenor hereof, with conſent foreſaid, ſell, annalzie, diſpone and renounce to the ſaid M. W. F. and his heirs and aſſignees whatſoever, heritably, all and ſundry the annuities which were and are addebted, due and payable to our ſaid Sovereign Lord, who now reigns, and to his Majeſty's ſaid umquhile father, of ever glorious memory, and their ſucceſſors, in any manner of way, forth of the teinds of the lands after ſpecified, the mills thereon, or belonging thereto, if any be, being always excepted, *viz.* of the lands of K. the teinds of D. the lands of C. and W. and pertinents, with the ſaid Mr. W. F. his ſalmon-fiſhing on the freſh water of F. with the pertinents, all lying within the pariſh of D. and ſheriffdom of E. and that as well of all years bygone, as of all years hereafter to come for ever; and ſicklike, I, with advice and conſent foreſaid, renounce,

nounce, discharge, and simply overgive, to and in favours of the said Mr. W. F. and his foresaids, all right, title, interest and claim of right whatsoever, which his Majesty and his Majesty's said umquhile dear father, or either of them, and their successors, had, have, or any ways may have, claim, or pretend to the annuity of the teinds of the lands above written, or any part thereof, for any years or terms bygone, or hereafter to come for ever, with all action, pursuit and execution competent, or that any ways may be competent to his Majesty, or royal father, or his Majesty's successors thereanent; declaring, that the said Mr. W. F. his heirs, executors and successors whatsoever, shall be free of the whole annuity of the teinds of the lands above written, and that he and his foresaids shall bruik and enjoy the said teinds freely, but payment of any annuity therefor, perpetually hereafter in all time coming, without any revocation, contradiction, impediment, or again calling whatsoever. And for the more security, we are content, and consent these presents be insert and registered in the books of exchequer, therein to remain, *ad futuram rei memoriam;* and constitute ——— our procurators. In witness whereof, we and two of the Lords commissioners of exchequer, have subscribed these presents, written by ——, with our hands, at Edinburgh, the 12th May 1673 years, before these witnesses ——, and my Lord and two of the commissioners subscribing, and registered in the books of exchequer, 19th June thereafter, under Sir Archibald Primrose, clerk-register, his hand.

Nota, My Lord L. had his commission and power to dispose of the annuities, for payment of a debt resting by his Majesty to his Lordship; and that his Lordship might not favour one person by another, but sell the annuities at an adequate value, and likeways that it might be known, when really and truly paid by his intromissions, of what resting to him by the King, the consent of the commissioners of exchequer, at least two of them, was absolutely necessary, and without which, and registration of the dispositions in the books of exchequer *ad hunc effectum*, the disposition was not valid.

DISPOSITION *by a Gentleman to another, of certain Lands, Baronies and others, in real Warrandice of other Lands formerly disponed, heritably and irredeemably, by a particular Right narrated in this, which limits the real Warrandice to a time prefixed, and to prescribe upon Performance of certain Deeds after mentioned; but when done, the absolute Warrandice in the first Right still stands.*

BE it known to all men by these present letters, me S. P. O. of B. heritable proprietor of the lands, barony and others after specified, with the pertinents, disponed by me in real warrandice of the other lands and others after mentioned, formerly and principally disponed by me, in manner after expressed: Forasmuch as I, with consent of ——, my eldest lawful son, and both of us with one consent and assent, by our right and disposition, of the date the —— day of —— years, for the onerous causes therein specified, sold, annalzied and disponed to W. D. of K. lawful brother to S. R. D. of G. and J. B. his spouse, the longest liver

liver of them two in conjunct fee and liferent, according to the diviſion and deſtination after ſpecified, and to the heirs male procreate or to be procreate betwixt them, which failing, to the ſaid W. D. his heirs-male whatſoever, which alſo failing, to his heirs whatſoever, and their aſſignees, heritably and irredeemably, all and haill the lands and barony of D. comprehending (*here inſert the other lands, as in the diſpoſition of the lands and eſtate principally diſponed, and then ſay*) together with the teind-ſheaves, and parſonage teinds of the ſaid haill lands, barony and others foreſaid, included in the ſtock, and not to be ſeparated therefrom in all time thereafter; together likeways with full power, liberty and privilege in all time coming, of caſting, winning, leading and tranſporting of peats, turfs and feuel forth of the moſs of R. for the uſe of the lands of D. and tenants and poſſeſſors thereof, and for the uſe of the manor-place of D. and for the uſe of the haill remanent lands and others above diſponed, by the roads and ways uſed and wont, and forth of theſe parts of the moſſes of R. in which the E. of F. when he was heritor of the ſaid lands, and I and my tenants have been in uſe to caſt and lead from thence, theſe divers years bygone, and that conform to the agreement and diviſion paſſed betwixt us and the other heritors concerned in the ſaid moſſes; together with all right of property and ſuperiority, and all other right, title and intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which we, or either of us, our heirs and ſucceſſors, had, have, or any ways may aſk, claim, or pretend thereto, or to any part or portion of the ſaid lands, mill, moſs, and others foreſaid, thereafter in all time coming, with the haill mails, farms, duties, feu-duties, blench-duties, caſualties and profits due and payable to me and my foreſaids, forth of the ſame: And it is thereby declared, that the ſaid reſpective towns and lands of Little and Meikle ——, and theſe parts of —— formerly diſponed, the lands of R. and A. ſhall only appertain and belong to the ſaid J. B. in liferent, during all the days of her lifetime, and is to be to her in ſatisfaction of what the ſaid W. D. her huſband, is obliged to provide to her in liferent, by their contract of marriage; and bound and obliged me, my heirs and ſucceſſors whatſoever, duly and ſufficiently to infeft and ſeiſe, by charter and ſeiſin, *titulo oneroſo*, in due and competent form, the ſaid W. D. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, according to the diviſion and deſtination above ſpecified, in all and haill the foreſaid lands and barony of D. comprehending, as ſaid is, and in the remanent towns, lands, mill, and others particularly and generally above diſponed, with the parſonage teinds, privileges and pertinents, lying and bounded in manner above expreſſed, and that by two ſeveral infeftments and manner of holdings, to be holden in manner ſpecified in the ſaid diſpoſition, and that by reſignation or confirmation, in their option, and to grant, ſubſcribe and deliver to them ſufficient diſpoſitions thereof, containing procuratories of reſignation, charters *à me et de me*, containing precepts of ſeiſin, and other ſecurities requiſite and neceſſary for infefting and ſecuring them in liferent and fee *reſpectivè* therein, with warrandice always in manner under written: Likeas now, as if the ſaid infeftments, or either of them, were already made and paſſed, and then as now, I obliged me and my foreſaids, to warrant, acquit and defend the foreſaid right and diſpoſition, procuratory of reſignation

tion therein contained, and infeftments to follow thereupon, lands, mill, mill-lands, multures, parſonage teinds, moſſes, privileges, and others above diſponed, with the pertinents therein ſpecified, lying and bounded as ſaid is, to be good, valid and ſufficient, free, ſafe and ſure to the ſaid W. D. his ſaid ſpouſe, and their foreſaids, in liferent and fee *reſpectivè*, from all and ſundry wards, reliefs, nonentries, annualrents, liferents, ladies terces, inhibitions, interdictions, appriſings, former alienations, private and publick infeftments, diſclamations, recognitions, purpreſtures, baſtardies, wadſets, reductions of infeftments, ſervices and retours, and ground annuals, of whatſoever nature, nullities, tacks, for long or ſhort ſpace, and from all and ſundry other perils, burdens, dangers and inconveniencies whatſoever, as well not named as named, bygone, preſent as to come, which may any ways ſtop, trouble or prejudge them in the peaceable poſſeſſion thereof, or intromitting with, and uplifting of the mails, farms and duties of the ſame thereafter in time coming, at all hands, and againſt all deadly; and in particular, but prejudice of the generality of the ſaid abſolute warrandice, I bound and obliged me and my foreſaids, to free and purge the lands, barony, mill, mill-lands, multures, parſonage teinds, privileges, and others particularly above diſponed, with their pertinents, of all inhibitions, appriſings, adjudications, infeftments, and other real incumbrances, of whatſoever nature and quality, which may any ways affect the ſaid lands, mill, teinds and others above ſpecified, and to deliver to them valid and formal renunciations of the ſaid incumbrances, for their ſecurity anent the ſaid lands, mill, teinds, and others foreſaid, at leaſt formal, valid, and ample conſents, under the perſons havers of the ſaid inhibitions, infeftments, or other real rights their hands, to the ſaid W. D. his ſaid ſpouſe, and their foreſaids, and what may be judged fit and expedient, at the ſight, and by the advice of lawyers, and that betwixt the date foreſaid, of the ſaid diſpoſition, and the —— day of —— then next, with the ſum of —— Scots money of expences, in caſe of failzie, by and attour performance of the premiſſes; and alſo, to warrant and relieve them of all ceſſes, feu and blench-duties, teind-duties, miniſters ſtipends, and other burdens and impoſitions preceding ——, being the time of their entry: And becauſe the ſame price was paid for the teind as for the ſtock; therefore, I obliged me and my foreſaids, to warrant the ſaid teinds to them, from all hazards, burdens, troubles, evictions and inconveniences, and others whatſoever, as well not named as named, bygone, preſent as to come, that may any ways trouble or moleſt them in the peaceable bruiking, enjoying and poſſeſſing of the ſame teinds in all time coming, except the preſent miniſter's ſtipend, extending in manner ſpecified in the ſaid diſpoſition, as the ſame, containing divers other obligements, articles and clauſes conceived in their favours, in itſelf more fully is contained. And ſeeing the time prefixed and appointed for my purging of ſuch incumbrances and real burdens, as the ſaid lands, barony, mill, mill-lands, teind-ſheaves, and others foreſaid, ſtand affected with, is elapſed, and that it is juſt and reaſonable the ſaid W. D. his ſaid ſpouſe, and their foreſaids, be not prejudged by their forbearance in uſing diligence againſt me for doing thereof, but on the contrary, that they be farther and better ſecured thereanent; therefore, and but any prejudice or derogation to the foreſaid diſpoſition and clauſe of abſolute warrandice,

and for purging of the ſaid incumbrances therein contained, or innovation thereof in any ſort, but in farther corroboration of the ſame, *accumulando jura juribus*, wit ye me to have ſold and diſponed, and by theſe preſents, ſells and diſpones to the ſaid W. D. and J. B. his ſpouſe, the longeſt liver of them two in conjunct fee and liferent, and heirs male betwixt them, which failing, to the ſaid W. D. his other heirs-male whatſoever, which alſo failing, to his heirs whatſoever, and their aſſignees, heritably, at leaſt during the time after expreſſed allenarly, all and haill theſe lands of the barony of B. (*here inſert the lands and others, as in the diſpoſition of the real warrandice, and then ſay*) together with the teind-ſheaves and parſonage teinds of all the ſaid lands, barony and others foreſaid included, and that in real warrandice and ſecurity to the ſaid W. D. his ſaid ſpouſe and their foreſaids, in liferent and fee *reſpectivè*, of the ſaid lands and barony of D. comprehending the lands, mill, mill-lands and others particularly above ſpecified; and likeways, in real warrandice and ſecurity to them, in liferent and fee, as ſaid is, of the haill remanent towns, lands and others above mentioned, with the parſonage-teinds, and pertinents of all the ſaid lands and privileges thereof above expreſſed, formerly and principally diſponed by me to them, by virtue of the diſpoſition above narrated, and that ay and while I, my heirs and ſucceſſors, purge, clear, liberate and free the ſaid lands, barony, mill, mill-lands, parſonage-teinds, privileges and others principally above diſponed, with the pertinents, of all ſuch real burdens, by horning, infeftments, inhibitions, and other diligences and incumbrances whatſoever, that in law does, and may be found to affect the ſame, and that either by ſufficient and valid renunciations and diſcharges, and other rights, *habili modo*, to be conveyed in their perſons, or by our making up to them ſuch rights and ſecurities thereof, as in law ſhall be preferable to the ſaid incumbrances and grounds of eviction, which is to be done at the ſight, and by the approbation of judicious lawyers, to be nominate and choſen by both parties, in manner foreſaid; and after which purging of the ſaid incumbrances, and making up and ſupplying of all which grounds and cauſes of eviction whatſoever, in manner foreſaid, the ſaid real warrandice is to become extinct, and from thenceforth to expire; but prejudice always to the ſaid W. D. his ſaid ſpouſe, and their foreſaids, of the abſolute warrandice and other obligements contained in the ſaid diſpoſition, which is ſtill to remain in full force, ſtrength and effect, for ſecurity of the ſaid lands, teinds and others foreſaid, principally above diſponed, even after the ſaid incumbrances are purged, and the ſaid other grounds and cauſes of eviction made up and ſupplied, and that in all time coming, conform to the tenor thereof in all points: And I bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid W. D. his ſaid ſpouſe, and their foreſaids, in all and ſundry the foreſaid lands, barony and others above ſpecified, with the pertinents, diſponed by me to them in real warrandice, as ſaid is, and that by double infeftments and manner of holdings, the one thereof to be holden of me and my foreſaids, feu, for payment of the ſum of —— Scots money, in name of feu-farm yearly, at Whitſunday and Martinmas in winter, by equal portions, during the ſaid ſpace; and of which feu-duty, of all years and terms to come, and all action of reduction, declarators of nullity, and others of the law competent,

petent, for not payment thereof, I, for me and my foresaids, exoner and discharge them for ever; and if need beis, I oblige me and my foresaids, to grant them termly discharges thereof, and the other of the said infeftments to be holden from me and my foresaids, of my immediate lawful superiors of the same, as freely as I hold the same myself, and that by resignation or confirmation in their option, and the one to be without prejudice of the other; and to grant to them dispositions, procuratories, and other securities requisite thereanent, with warrandice in manner under written: And for the better obtaining of the said infeftment by resignation, but prejudice of the other infeftment above written, I hereby make and constitute ——, or any one of them, my very lawful, undoubted and irrevocable procurators, to the effect after specified, with power to compear before my said immediate lawful superiors, or their commissioners, in their names, having their power to receive resignations, and thereupon to grant new infeftments, any day and place lawful and convenient, and there, with all due humility and condign reverence as becomes, purely and simply, by staff and baston, as use is, to resign, likeas I, by these presents, resign, surrender, overgive and deliver, all and sundry the foresaid towns, lands, barony, mills, mill-lands, multures and sequels thereof, mosses, muirs, and others particularly and generally above specified, with the pertinents, disponed by me in real warrandice, as said is, and lying in manner foresaid, and that in real warrandice and security to the said W. D. his said spouse, and their foresaids, of the said lands, barony, mill, mill-lands, parsonage-teinds and others, with the privileges and pertinents thereof, principally above disponed, and that ay and while I and my foresaids purge the said incumbrances, and supply the said other grounds and causes of eviction, in manner, and in the terms above expressed; and after which purging and supplying of the said grounds, the said real warrandice is to expire and become extinct, but prejudice always to them of their former rights, clause of absolute warrandice, and other clauses therein contained, even after the expiration of the said real warrandice, conform to the tenor of the said former rights, in all points, and that in all time coming, in the hands of my said lawful superiors, or the commissioners above mentioned, in favours, and for new infeftment of the same, to be made and granted to the said W. D. his said spouse, and their foresaids, in liferent and fee *respectivè*, and in real warrandice, as said is, to be holden of the said superiors, in such due and competent form as accords, acts, instruments and documents, one or more, as need beis in the premisses to ask and raise, and generally all and sundry other things thereanent, to do, use and exerce, as freely in all respects, as I might do therein myself, if I were personally present; promising to hold firm and stable, *&c.* And for their farther security anent the premisses, I hereby assign, transfer and dispone in their favours, in liferent and fee *respectivè*, and in real warrandice, as said is, the writs and evidents, both old and new, of the said lands and others foresaid, disponed in real warrandice, as said is; and likeways, constitutes them my assignees, in liferent and fee *respectivè*, to the mails and duties of the same, of the first crop of the eviction, if any be, and thereafter during the not repossession to the principal lands and teinds, and effeiring and correspondent to the said eviction, in quantity and quality, and no farther; and I oblige me and my

foresaids, to warrant this present right and disposition, resignation and infeftments to follow thereupon, lands and others therein contained, to be free, safe and sure to the said W. D. his said spouse, and their foresaids, during their being and continuing with them, as a real warrandice, as said is, from all wards, reliefs, nonentries, escheats, liferents, prior infeftments, inhibitions, apprisings, adjudications and other grounds of eviction whatsoever, at all hands, and against all deadly; and in case of eviction, to deliver to them judicial transumpts of the said writs, and make the principals forthcoming to them, wherein transumpts shall not be sufficient: And in case it shall please them, to hold the said warrandice lands of me and my foresaids, as their superiors, I oblige me and my foresaids, to enter and receive their heirs and assignees from time to time therein, as real warrandice *respectivè*, and in the terms, and during the space above expressed, and that for payment of three shillings four pennies money foresaid, at and for the entry of each heir, assignee or successor thereto, and not to ly out ourselves unentered to their prejudice; and if any casualty, by liferent, escheat, or otherways, fall in our hands, as superiors foresaid, in any case or matter civil or criminal, I oblige me and foresaids, to dispone the same to themselves, or any other person they please, for their behoof, for payment of the like composition of three shillings four pennies money foresaid, *toties quoties* the same falls out and occurs; likeas, now as then, and then as now, I, for me and my foresaids, *per verba de presenti*, hereby assign and dispone the said casualties in their own favours for ever. And lastly, it is hereby declared and provided, that the foresaid real warrandice is, and shall be, but prejudice to them of the foresaid absolute warrandice, and other obligements contained in their former rights, and that the said absolute warrandice and former obligements are, and shall be but prejudice to them of the said real warrandice, so that it shall be always lawful to them, to make use of both, or either, conjunctly or severally, the one but prejudice of the other, ay and while they be secured, and that but any innovation or confusion of rights or warrandices. Consenting these presents be registered in the books of council and session, *&c.* Dated at Edinburgh, the nineteenth day of August, One thousand six hundred three score nineteen years, before these witnesses,

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REVOCATION *by* R. T. *of all Deeds done by him, in favours of his Wife, or any other Person for her Behoof, either gratuitously, or without an adequate onerous Cause.*

BE it known to all men by these present letters, me R. T. *&c.* Forasmuch as I now take into my serious consideration, that God hath blessed me, not only with a daughter called J. T. procreate betwixt me and M. T. my first spouse, who gave me never offence, either in her first or second marriage, or any other manner of way, since her nonage, to this very day, but also, with a grandchild of her body, called M. B. lawfully procreate betwixt her and M. R. B. minister

niſter of the goſpel, her preſent huſband; and likeways conſidering, how I have been impoſed upon, by the influence and inſtigation of M. P. my preſent ſpouſe, and ſome of her friends and relations, not only to grant to her a liferent of my fortune, real and perſonal, and even a diſpoſition of both, at leaſt, to ſome perſon or perſons for her uſe and behoof, and thereby to diſinherit my ſaid daughter and grandchild, of their juſt, lawful and righteous inheritance, to which, by the laws of nature, municipal laws of the land, and even religion itſelf, they ought, in juſtice to ſucceed; and I being now ſenſible of the injury thereby done me, and by myſelf, in conſenting to, and doing of ſuch deeds, but alſo, by granting bonds to particular perſons, either for ſums of money never received, or for greater ſums than truly advanced to me, and upon part whereof infeftments have been taken, and I otherways diſtreſſed: Therefore, and I being willing to redreſs all theſe injuries and impoſures, and put matters in their due and right channel, whereby my conſcience may be kept entire, and none of my lawful creditors prejudged, as to what juſt and lawful debts ſhall be found owing to them, and thereby I may die in peace, and with the ſafer conſcience. And knowing that all deeds done by men in favours of their wives, or to any other perſon or perſons for their behoof, otherways than by contract of marriage, as being acts *inter viros et uxores*, and in effect, upon the matter, but donation, and ſo in law reducible and revocable, and may be quarrelled and impugned as gratuitous deeds: Therefore wit ye me, for myſelf, and by virtue of the ſaid power and faculty, introduced and conceived in my favours by law, and of my own free will and proper motive, to have revoked, recalled, caſſed and annulled, likeas I, by theſe preſents, revoke, recal, caſs and annul, all and whatſoever diſpoſitions, procuratories of reſignation, and other rights and ſecurities granted by me at any time heretofore, in favours of the ſaid M. P. my ſpouſe, or to any perſon or perſons for her behoof, or to their, or either of their heirs and aſſignees, heritably and irredeemably, or under reverſion, or in liferent, of, upon, or concerning that great tenement of land, back and fore, under and above, with the yards and pertinents lately built by me, above and upon that piece of waſte ground, diſponed to me by the good town of ——, and bounded in manner ſpecified in my rights and infeftments thereof, and here holden as for expreſſed, *brevitatis cauſa*, and of any other lands and eſtate, real or perſonal, pertaining or belonging to me, by whatſoever manner of way, and particularly, but prejudice of the ſaid generality, of the inſight and pleniſhing of my houſe and utenſils, of whatſoever nature or quality the ſame be of; and in like manner, all bonds, obligations, contracts or other rights granted by me to my ſaid preſent ſpouſe, or to any other perſon or perſons, bearing the receipt of ſums of money, and obligement for payment thereof, whether with or without the payment of annualrents and expences, or for preſtation of other deeds, whereby my ſaid lands and eſtate, real or perſonal, may be affected, or evicted any manner of way; and namely, that obligement and proviſion in my contract of marriage with my ſaid preſent ſpouſe, whereby I, and my heirs and executors, are obliged to pay to her, or any ſhe ſhall bequeath the ſame to, —— or thereby, failing of children betwixt us, being only by a marginal note put thereon after the marriage, in the haill heads, articles and clauſes thereof; and wills and declares

declares all the ſaid writs, rights and deeds, to be extinct, void and null themſelves, *ipſo facto*, by way of reduction, exception or reply, as if the ſame had never been made or granted; and admits and declares the ſaid general revocation, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if each bond, obligation, diſpoſition, procuratory of reſignation, or other rights made by me, as ſaid is, were herein particularly narrated, and *ad longum* inſert and ingroſſed, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can any ways be objected againſt the validity thereof, I, for me and all others that may ſeem to be concerned, have diſpenſed, and by theſe preſents diſpenſes for ever. Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, general regiſter of ſeiſins at ——, appointed for regiſtration of ſeiſins, reverſions, *&c.* or others competent, therein to remain for conſervation; and conſtitutes —— my procurators, *&c.* In witneſs whereof, I have ſubſcribed theſe preſents (written by ——) with my hand, at ——, the —— day of ——, —— years, before theſe witneſſes,

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DISPOSITION *by the ſame Perſon, of his lands, in favours of his Grandchild, containing likeways a Revocation.*

BE it known to all men by theſe preſent letters, me R. T. heritable proprietor of the great tenement of land and others after diſponed, with the pertinents: Foraſmuch as I now take into my ſerious conſideration, that God has bleſſed me, not only with a daughter, called J. T. procreate betwixt me and M. T. my firſt ſpouſe, who never gave me offence, either in her firſt or ſecond marriage, or any other manner of way, ſince her nonage, to this very day, but alſo with a grandchild of her body, called M. B. lawfully procreate betwixt her and M. R. B. miniſter of the goſpel, her preſent huſband; and likeways conſidering, how I have been impoſed upon, by the influence and inſtigation of M. P. my preſent ſpouſe, and ſome of her friends and relations, not only to grant to her a liferent of my fortune, real and perſonal, and even a diſpoſition of both, at leaſt, to ſome perſon or perſons for her uſe and behoof, thereby to diſinherit my ſaid daughter and grandchild, of their juſt, lawful and righteous inheritance, to which, by the laws of nature, municipal laws of the land, and even religion itſelf, they ought, in juſtice, to ſucceed. And I being now ſenſible of the injury thereby done me, and by myſelf, in conſenting to, and doing of ſuch deeds, but alſo in granting bonds to particular perſons, either for ſums of money never received, or for greater ſums than truly advanced to me, and upon a part whereof infeftments have been taken, and I otherways diſtreſſed therefor; and I being willing to redreſs all theſe injuries and impoſures, and put matters in their due and right frame, whereby my conſcience may be kept entire, and none of my lawful creditors prejudged, as to what juſt and lawful debts I ſhall be found owing to them, and whereby I may die in peace, and with the ſafer conſcience; and knowing that all deeds done by men, in favours

vours of their wives, or to any other perſon or perſons for their behoof, otherways than by cantract of marriage, as being acts *inter viros et uxores*, and in effect, upon the matter, but donations, and ſo in law reducible and revocable, and may be quarrelled and impugned as gratuitous deeds: Therefore, wit ye me, for myſelf, and by virtue of the power and faculty introduced and conceived in my favours by law, and of my own free will and proper motive, to have revoked, recalled, caſſed and annulled, likeas I, by theſe preſents, revoke, recal, caſs and annul, all and whatſoever diſpoſitions, procuratories of reſignation, and other rights and ſecurities granted by me at any time, in favours of the ſaid M. P. my ſpouſe, or any perſon or perſons for her behoof, or to their, or either of their heirs and aſſignees, heritably and irredeemably, or under reverſion, or in liferent, of, upon, or concerning that great tenement of land, back and fore, under and above, with the yards and pertinents lately built by me, above and upon that piece of waſte ground diſponed to me by the town of ——, and bounded in manner after ſpecified, and of any other lands and eſtate, whether real or perſonal, pertaining and belonging to me by whatſoever manner of way, and particularly, but prejudice of the ſaid generality, of the inſight and pleniſhing of my houſe and utenſils, of whatſoever nature or quality the ſame be of; and in like manner, all bonds, obligations, contracts and other rights granted by me to my ſaid preſent ſpouſe, or to any other perſon or perſons, bearing the receipt of ſums of money, and obligement for payment thereof, whether with or without the payment of annualrents and expences, or for preſtation of other deeds, whereby my ſaid lands and eſtate, real and perſonal, may be affected or evicted any manner of way; and namely, that obligement or proviſion in my contract of marriage with my ſaid preſent ſpouſe, whereby I and my heirs and executors, are obliged to pay to her, or any ſhe ſhall bequeath the ſame to, —— merks, or thereby, failing of children betwixt us, being only by a marginal note put upon after the marriage, in the haill heads, articles and clauſes thereof; and wills and declares all the ſaid writs, rights and deeds to be extinct, void and null in themſelves, *ipſo facto*, by way of reduction, exception or reply, as if the ſame had never been made or granted; and admits and declares the ſaid general revocation, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if each bond, obligation, contract, diſpoſition, procuratory of reſignation, or other right made by me, as ſaid is, were herein particularly narrated, and *ad longum* inſert and ingroſſed, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can be any ways objected againſt the validity thereof, I, for me and all others that may ſeem to be concerned, have diſpenſed, and by theſe preſents, diſpenſes for ever. And in like manner, for the love and favour I have and bear to the ſaid M. B. my grandchild, and other good, weighty and grave conſiderations moving me, wit ye me to have diſponed, likeas I, by theſe preſents, diſpone to the ſaid M. B. my grandchild, and to the heirs and bairns to be procreate of her body, which failing, to the ſaid J. T. her mother, and my only child, and the heirs or bairns procreate or to be procreate betwixt her and the ſaid M. R. B. her preſent huſband, which failing, to the heirs and bairns lawfully

lawfully to be procreate of the ſaid J. T. my daughter, her body, in any other marriage, which failing, to the ſaid M. R. B. and his heirs and aſſignees whatſoever, all and haill the foreſaid great tenement of land, back and fore, under and above, with the yards and pertinents, lately built by me, above and upon that piece of waſte ground, diſponed to me by the ſaid town of ——, lying in the —— of —— upon the ſouth ſide of the water thereof, bounded betwixt that tenement of land pertaining to the deceaſed J. B. on the ſouth, the tenement built by R. M. maſon, on the north, the —— on the eaſt, and the —— on the weſt part, on the one ſide and other, with free iſh and entry thereto, and haill liberties, privileges and pertinents belonging thereto; and I bind and oblige me, my heirs and ſucceſſors, to infeft and ſeiſe the ſaid M. B. and her foreſaids, which failing, as ſaid is, therein, and that by double infeftments and manner of holdings, the one thereof to be holden of me, my heirs and ſucceſſors, in free blench, for payment of one penny Scots money, upon the ground of the ſaid tenement, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and the other of the ſaid infeftments to be holden from me and my foreſaids, of my immediate lawful ſuperiors thereof, as freely in all reſpects, as I hold, or may hold the ſame myſelf, and that by reſignation or confirmation, in their option, the one but prejudice of the other, and to grant all rights requiſite thereanent, with warrandice, in manner under written. And for the better obtaining of the foreſaid infeftment by reſignation, but prejudice of the other infeftment above written, I hereby make, conſtitute and ordain ———, or any one of them, my very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly or ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge, for me, in my name, and upon my behalf, to compear before my ſaid immediate lawful ſuperiors of the ſaid tenement of land, with the yards and pertinents, any day and place lawful and convenient, and there, with all due humility and condign reverence, as becomes, purely and ſimply, by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas I hereby reſign, ſurrender, overgive and deliver, all and haill the foreſaid great tenement of land, back and fore, under and above, with the yards and pertinents lately built by me, above and upon that piece of waſte ground diſponed to me by the ſaid town of ——, and bounded, as ſaid is, with free iſh and entry thereto, and haill liberties, privileges and pertinents belonging to the ſame, in the hands of my ſaid lawful ſuperiors thereof, in favours and for new infeftment of the ſame, to be made and granted to the ſaid M. B. my grandchild, and to the heirs and bairns of her body, which failing, in manner foreſaid, and their aſſignees, heritably, to be holden of the ſaid ſuperiors, in ſuch due and competent form as accords; but with and under the expreſs reſervations, proviſions, conditions and declarations after ſpecified, *viz.* Reſerving always to me my liferent-right of the ſaid great tenement, yards and pertinents, during all the days of my lifetime; and alſo, reſerving to the ſaid M. P. my ſpouſe, her liferent-right of —— merks Scots a-year, provided to her by contract of marriage, during all the days of her lifetime, in caſe ſhe happen to ſurvive me; and likeways,

likeways, with this proviſion and declaration always, likeas it is hereby expreſly provided and declared, and be it ſo provided and declared, by the reſignation and infeftment to follow hereupon, that theſe preſents are granted and accepted by my ſaid grandchild and her foreſaids, which failing, as ſaid is, with the burden of the payment of the ſum of —— merks money foreſaid, contained in a bond granted by me to my ſaid daughter, and the ſaid M. R. B. her huſband, and longeſt liver of them two in liferent, and to the bairns procreate betwixt them; which failing, to the bairns and children to be procreate of my ſaid daughter, her body, of any other ſubſequent marriage; which failing, to the ſaid M. R. B. his neareſt heirs or aſſignees whatſoever, in fee thereupon, of the date the —— day of —— —— years, with the expences and annualrents therein contained. And in the next place, it is hereby provided and declared, that theſe preſents, reſignation and infeftments to follow hereupon, ſhall no ways prejudge any of my juſt and lawful creditors, of their juſt and lawful debts; but on the contrary, and by the acceptation hereof, my ſaid grandchild, and her foreſaids, which failing, as ſaid is, ſhall be holden and obliged to ſecure them for payment of their ſaid debts, either by irredeemable rights, wadſets, or rights of annualrents forth thereof, adequate to their ſums, and under reverſion, by payment of the ſame, but prejudice always to my ſaid grandchild and her foreſaids, to quarrel and impugn the ſaid debts and ſecurities granted by me therefor, upon whatſoever ground competent, and as accords of the law; neither ſhall theſe preſents, with the proviſion and declaration foreſaid, import or infer any homologation or approbation of the ſaid debts, or rights granted therefor, further than the ſame may be found juſt, and ſuſtained in law, after they are quarrelled and impugned, in reſpect ſeveral of the ſaid ſecurities for the ſaid debts, were elicited from me for no cauſe, or for greater ſums than I truly and really received, being impoſed upon, and inſtigated thereto, as ſaid is, acts, inſtruments and documents, one or more, as need beis in the premiſſes, to aſk and raiſe, and generally all and ſundry other things thereanent, to do, uſe and exerce, ſicklike, and as freely in all reſpects, as I might do therein myſelf, were I perſonally preſent; promiſing to hold firm and ſtable, *&c.* And for the ſaid M. B. and her foreſaids, which failing, as ſaid is, their farther ſecurity anent the premiſſes, I hereby aſſign, transfer and diſpone in their favours, the writs and evidents of the ſaid great tenement of land, and others foreſaid, with the pertinents, and all action competent thereon, for ever. And I hereby conſtitute them my aſſignees, in and to the mails and duties thereof, that ſhall happen to be reſting the time of my deceaſe, and yearly and termly thereafter in all time coming; with full power to the ſaid M. B. and her foreſaids, which failing, as ſaid is, to intromit with, uplift, aſk, crave and receive the foreſaid mails and duties above aſſigned, and to charge and purſue therefor, and for exhibition, production and delivery of all my writs and evidents, that ſhall be found abſtracted by my ſaid ſpouſe, or others; and, upon my deceaſe, to intromit with ſuch of the writs as are extant, before any judge or judges competent, and to ſet and raiſe tenants, uſe warning, proſecute removing, decreets in the premiſſes to obtain and recover, and the

ſame to due execution cauſe be put, and generally all and ſundry other things anent the premiſſes, to do, uſe and exerce, ſicklike, and as freely in all reſpects, as I might do therein myſelf, before the granting of theſe preſents, which I oblige me, my heirs and ſucceſſors, to warrant from my own proper fact and deed allenarly; with and under the reſervations, proviſions and conditions above mentioned, and no otherways, and with the burden above expreſſed: Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, or others competent, therein to remain for conſervation; and conſtitute —— my procurators. Attour, to the effect the ſaid M. B. may be lawfully infeft in the ſaid great tenement of land, back and fore, under and above, with the yards and pertinents, lying and bounded, as ſaid is, to be holden *à me* or *de me*, in manner foreſaid, I hereby make, conſtitute and ordain ——, or any one of you, my baillies in that part, to the effect after ſpecified; with power to paſs to the ground thereof, and there give heritable ſtate and ſeiſin, actual, real and peaceable poſſeſſion of the ſaid great tenement of land, back and fore, under and above, with the yards, privileges, liberties and pertinents of the ſame, lying and bounded as ſaid is, and here holden as for expreſſed *brevitatis cauſa*, to the ſaid M. B. or her attorney, in her name, bearer of theſe preſents, by deliverance to them of earth and ſtone of the ſaid tenement and yards, upon the grounds thereof, as uſe is, and with and under the expreſs reſervations, proviſion, condition and burden above mentioned; and this on no ways ye leave undone: The which to do, gives full power thereanent, by this my precept of ſeiſin, granted for that effect. In witneſs whereof, I have ſubſcribed theſe preſents, written by ——, with my hand, at ——, the —— day of —— —— years, before theſe witneſſes,

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DISPOSITION *and* ASSIGNATION *by the ſame Perſon to his Grandchild.*

BE it known to all men, by theſe preſent letters, me R. T. —— for the love and favour I have and bear to M. B. my grandchild, lawfully begot betwixt J. T. my daughter and only child now on life, and M. R. B. —— her huſband: Wit ye me, and now after I have revoked, recalled, and made void and null all diſpoſitions, aſſignations, procuratories of reſignation, and other writs and deeds, made, granted and done by me in favours of M. P. my ſpouſe, or any other perſon or perſons, for and towards her behoof, of my eſtate, real and perſonal, either by way of irredeemable right, wadſet, liferent, right of annualrent, or any other manner of way; and all bonds, obligations, and other writs made by me to her or them, for payment of ſums of money, or performance of other deeds, whereby the ſame eſtate, real or perſonal, pertaining to me, may be any ways affected or evicted, as being elicited and procured from me after our marriage, by the importunity, influence and inſtigation of my ſaid ſpouſe,

ſpouſe, or ſome of her friends; and particularly, but prejudice of the ſaid generality, a marginal note on my contract of marriage with her, whereby I am bound to pay to her ——— merks, or thereby, failing of children of the marriage, in manner more fully ſpecified in my revocation ſubſcribed thereanent, of the date of theſe preſents, and here holden as for expreſſed *brevitatis cauſa*, to have aſſigned and diſponed, likeas I, by theſe preſents, aſſign and diſpone, to and in favours of the ſaid M. B. my grandchild, her heirs and aſſignees whatſoever, all and ſundry goods, gear, inſight, pleniſhing of my houſe, utenſils, debts, ſums of money, bonds, obligations, diſpoſitions, aſſignations, tranſlations, adjudications, grounds and warrants thereof, infeftments following, or competent to follow thereupon, tickets, accompts, decreets, acts of warding, horning, caption, inhibitions, arreſtments, and others whatſoever, addebted and reſting owing to me, or my cedents and authors, led and deduced at our, or either of our inſtances, and pertaining and belonging to me, or that ſhall happen to pertain and belong to me the time of my deceaſe, as well not named as named, and of whatſoever nature, tenor, quality or dates the ſame be of, whether heritable or moveable; and I admit and declare the generality foreſaid to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if each particular debt, pleniſhing, and right, generally above aſſigned and diſponed, were all herein ſet down and engroſſed, albeit not ſo done; whereanent, and with all that may follow thereupon, or that can be any way objected againſt the validity of this preſent right, I, for me, my heirs, executors, and all others whom theſe may concern, have diſpenſed, and by theſe preſents, diſpenſes for ever; with full power to the ſaid M. B. and her foreſaids, to intromit with, uplift, aſk, crave and receive the foreſaid debts, ſums of money, pleniſhing, writs and evidents above aſſigned and diſponed, and to diſpoſe thereupon at pleaſure after my deceaſe, and if need beis, to call, follow, charge and purſue therefor, and for exhibition, production, and deliverance of the ſame, againſt all abſtractors, meddlers therewith, and havers of the ſame, as accords of the law, and that before whatſoever judge or judges competent, decreets in the premiſſes to obtain and recover, and the ſame to due execution cauſe be put, compone, tranſact and agree thereanent; and upon payment and delivery, to grant diſcharges, which ſhall be ſufficient to the receivers, and to do what elſe I might do therein myſelf, at any time before my deceaſe; obliging me, my heirs and executors, to warrant theſe preſents from my own proper fact and deed allenarly; reſerving always to me my liferent-right of the haill premiſſes, during all the days of my lifetime. And it is hereby declared, that theſe preſents are granted with the burden of the payment of —— merks Scots, due by me to my ſaid daughter and her ſaid huſband in liferent, and to the bairns and children procreate betwixt them, which failing, to the other perſons ſubſtituted in the bond granted by me thereanent, dated the —— day of ——— and of the annuals and expences therein contained: Neither, in the next place, ſhall theſe preſents prejudge any of my lawful creditors, as to their juſt and lawful debts reſting by me to them, but prejudice always to my ſaid grandchild and her foreſaids, which failing, as ſaid is, to quarrel and impugn

pugn the ſaid other creditors their debts, and ſecurities granted therefor, upon whatſoever grounds competent in law, a great part whereof were elicited from me without any ſums of money, and others thereof for greater ſums than I truly received, by the inſtigation, influence and importunity of my ſaid wife, and ſome of her friends, as ſaid is. Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, or others competent, therein to remain for conſervation; and conſtitute ——— my procurators. In witneſs whereof, I have ſubſcribed theſe preſents, (written by ——— writer in ———) with my hand, the —— day of ——— ——— years, before theſe witneſſes,

Having thus written as to heritable bonds, and their ſeveral natures, wadſets proper and improper, and younger childrens proviſions, and how; I come now to ſpeak of the various ways and manner how an eldeſt ſon may be ſecured in his father's fortune; and this may be one of three ways. 1. By a procuratory of reſignation from the father. 2. By contract of marriage, if the eldeſt ſon marry in the father's lifetime, which alſo contains a procuratory of reſignation: Or, 3. By ſervice and retour after the father's deceaſe, to be found in the ſixth part, amongſt *Services*. And ſo I begin with the firſt, being a

PROCURATORY *of* RESIGNATION *of an Eſtate by a Father, in favours of his eldeſt Son, of an ordinary and plain Style, without a long Tailzie; only reſerving the Father's Liferent of the Manor-Place, and half of the Fortune; and to the Mother what provided to her by Contract and additional Proviſion, (in caſe ſhe ſurvive); and failing of Heirs-Male of his Body, and Heirs-Male whatſoever, the Eſtate devolves upon the Heirs whatſoever, and the eldeſt has the Preference without Diviſion, with ſome Limitations; and this is alſo granted with the Burden of the debt and Bairns Proviſions, conform to a Liſt of the Debts ſubſcribed by the Father and Son, and Bonds of Proviſion apart, granted to the younger Children.*

BE it known to all men, by theſe preſent letters, me A. B. of ——, heritable proprietor of the lands, barony, and others after reſigned, with the pertinents; for the love and favour I have and bear towards W. B. my eldeſt lawful ſon, procreate betwixt me and J. M. my ſpouſe: Therefore, wit ye me to have made, conſtituted and ordained, likeas I, by theſe preſents, with and under the expreſs reſervations, proviſions, conditions, declarations and burden after mentioned, and no otherways, make, conſtitute and ordain ——— and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand-bearers, to the effect after ſpecified; giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge, for me, in my name, and upon my behalf, to compear before his ſacred Majeſty and royal ſucceſſors, my lawful ſuperiors of the lands and barony of ——— after ſpecified, comprehending the particular towns, lands, mills, mill-lands, manor-places, patronages, teinds, and others after mentioned, or their commiſſioners in their names, having their power to receive reſignations, and thereupon to grant new infeftments; and alſo, to compear before my other ſuperiors of the remanent lands

lands and others after expreſſed, not comprehended in the ſaid barony, and that any day and place lawful and convenient; and there, with all due humility and condign reverence as becomes, purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas I, by theſe preſents, reſign, ſurrender, overgive and deliver, all and haill the lands and barony of ———, comprehending the particular towns, lands, mills, mill lands, manor-places, patronages, teinds, and others after mentioned, *viz. (here inſert all the barony, with what therein comprehended, conform to the father's charter under the great ſeal, and where they ly, and then ſay)* in the hands of his Majeſty and royal ſucceſſors, my lawful ſuperiors thereof, or their commiſſioners above ſpecified; and ſicklike, to reſign, ſurrender, overgive and deliver, likeas I, by theſe preſents, reſign, ſurrender, overgive and deliver, all and haill *(here inſert all the lands, and others holden of other ſuperiors than the King, and where they ly, and then ſay)* in the hands of the other ſuperiors thereof above rehearſed, in favours, and for new infeftments of the ſaid lands and barony, comprehending as ſaid is, and holden of his Majeſty, in manner foreſaid; and likeways of the haill remanent lands and others above ſpecified, holden of my other ſuperiors, in manner above expreſſed, to be made and granted to the ſaid W. B. my eldeſt lawful ſon, and to the heirs-male lawfully to be procreate of his body; which failing, to his heirs-male whatſoever; which all failing, to his heirs whatſoever, the eldeſt daughter or heir-female ſucceeding, and having always the preference, without diviſion, and their aſſignees, heritably and irredeemably, to be holden of my ſaid reſpective ſuperiors above written, in ſuch due and competent form as accords; but with and under the expreſs reſervations, proviſions, conditions, declarations and burdens after mentioned, *viz.* reſerving always to me my liferent-right of the manor-place, office-houſes, yards and orchards of the ſaid barony, now preſently poſſeſſed by myſelf; as alſo, of theſe parts and portions of the ſaid eſtate particularly under written, *viz. (here inſert the lands and others reſerved to the father in liferent, and then ſay)* and that during all the days of my lifetime; and ſicklike, reſerving to ——— my ſpouſe her liferent-right of ſuch of the ſaid lands, barony and others above reſigned, with the pertinents, as are provided to her in liferent, by contract of marriage, and infeftment following thereupon, and additional proviſion granted by me to her thereafter, and both during all the days of her lifetime, in caſe, at the pleaſure of God, ſhe happen to ſurvive me. And in like manner, it is hereby expreſly provided and declared, and be it ſo provided and declared, by the reſignation and infeftments to follow hereupon, that the ſaid W. B. my eldeſt lawful ſon, and the heirs-male of his body, which failing, his other heirs-male and of tailzie above ſpecified, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them to ſatisfy and pay to my lawful creditors, the debts reſting by me to them by wadſet, right of annualrent, perſonal bonds, or otherways, conform to a liſt thereof, ſubſcribed by me and my ſaid ſon thereanent, of the date of theſe preſents; and likeways, to ſatisfy and pay my younger childrens portions and proviſions, conform to, and in the terms of the bonds of proviſion granted by me to them, alſo thereanent, and

with

with aliment or annualrent and penalties, in manner therein expreſſed; and to warrant, free, relieve, harmleſs and ſkaithleſs keep me, and my executors, of all requiſition and legal diligence and execution whatſoever, that may be uſed againſt me or them, at the inſtance of my ſaid creditors and children, or either of them, or of their heirs, executors or aſſignees, for the ſaid debts, portions and proviſions, and of all coſt, ſkaith, damage, intereſt, charges and expences that may be ſuſtained by us therethrough any manner of way in time coming; and to report to me and my foreſaids ſufficient acquittances, diſcharges and renunciations of the ſame, whenever deſired by us thereto; and for all which, and doing and performing thereof, the ſaid W. B. my ſon, is particularly obliged to me and my foreſaids, by a particular bond granted thereanent, alſo of the date of theſe preſents. And farther, it is hereby expreſly provided and declared, and be it ſo expreſly provided and declared, by the ſaid reſignation and inteſtment, that if at any time hereafter, the ſucceſſion (failing of heirs-male to ſucceed in the ſaid lands and eſtate) ſhall deſcend to the heirs-female, that then, and in that caſe, the eldeſt heir-female ſhall ſucceed, and have the preference, without diviſion, marrying a gentleman of the name of B. or one who will aſſume the ſame; and they, and the heirs-male and female deſcending of their bodies, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them in all time thereafter, to aſſume, uſe and bear the ſurname of B. arms, cogniſance and ſtyle of ———; and wherein if they fail and contravene, then, and in that caſe, *ipſa facto*, they ſhall amit and tine their right to the ſaid lands and eſtate, and the ſame ſhall devolve upon, and appertain and belong to the next in blood or order of ſucceſſion, who is hereby impowered and appointed, in the caſe foreſaid, and immediately upon the ſaid contravention, to ſucceed thereto, even as if the contravener were naturally dead; and the ſaid contraveners are thereby holden and obliged to denude and diveſt themſelves of the right of the ſaid eſtate, and all pretence they have thereto, in favours of the ſaid perſon that is next in blood and right of ſucceſſion, in manner foreſaid; and ſhould they refuſe or delay ſo to do, it ſhall be leiſome to, and in the power of the ſaid perſon next in blood and right of ſucceſſion, to oblige the contraveners to denude, *ut ſupra*, by way of declarator, adjudication, or otherways, as may beſt conſiſt with the laws and cuſtoms of the kingdom in that caſe provided, the perſon ſo ſucceeding upon the ſaid contravention marrying *ut ſupra*, and her huſband, and deſcendents of their bodies, aſſuming, uſing and bearing the ſurname of B. arms, cogniſance and ſtyle of ———, in manner and in the terms above expreſſed. And, *laſtly*, It is hereby provided and declared, that it ſhall not be lawful to, or in the power of the ſaid W. B. my ſon, and heirs-male of his body, or yet to the other heirs-male and of tailzie above ſpecified, to alter, innovate or infringe the foreſaid tailzie, or order of ſucceſſion therein appointed, or the nature, quality and preciſe terms thereof, in prejudice of the ſucceſſors; and the deeds ſo done ſhall not only be void and null, but alſo, the perſon contravener ſhall amit and tine all right he or ſhe has, or can pretend, by virtue of this preſent right of tailzie, or otherways, to the ſaid lands, teinds, and others foreſaid; and the next in the order of ſucceſſion,

ſion, who might have ſucceeded therein, if the contravener were naturally dead, ſhall have right thereto, and in full power to oblige the contravener to denude thereof, the way and manner formerly appointed and preſcribed; and with and under the which reſervations, proviſions, conditions, limitations, and burden of the ſaid debts, portions and proviſions, and obligements relating thereto, theſe preſents are granted and accepted, and reſignations and infeftments appointed to follow thereupon, and no otherways, acts, inſtruments and documents (6), one or more, as need beis in the premiſſes, to aſk and raiſe, and generally, *&c.* promiſing to hold firm and ſtable, *&c.* (*as in the former ſtyles*) And for my ſaid ſon and his foreſaids, which failing, as ſaid is, their farther ſecurity anent the premiſſes, I, by theſe preſents, aſſign, transfer and diſpone in their favours, all and ſundry contracts, diſpoſitions, charters, infeftments, procuratories and inſtruments of reſignation, precepts and inſtruments of ſeiſin, contracts and indentures of marches, decreets-arbitral, ſervices, retours, precepts under the quarter ſeal, and ſeiſins following on the ſame, and haill other writs, evidents, rights, titles and ſecurities whatſoever, and of whatſoever dates, tenors, contents, nature and quality they be of, made and granted by whatſoever perſon or perſons to me, my predeceſſors, cedents and authors, of, upon, or concerning the ſaid lands, barony, teinds, and others particularly and generally above reſigned, with the pertinents; and likeways, all tacks, aſſedations, decreets of plat and prorogations, valuations, and other rights and ſecurities made to me or my foreſaids, of, upon, or concerning the teinds of any of the ſaid lands, to which I have, not an heritable, but a temporary right, and that of all years thereof yet to run and unexpired, obligements to infeft, procuratories of reſignation, abſolute warrandice, aſſignation to the writs and evidents, mails and duties, obligements for delivery of the ſaid writs and evidents, making the ſame forthcoming, or giving of tranſumpts, and haill remanent heads, obligements, articles and clauſes contained in all or either of the ſaid rights, and all action, purſuit, inſtance and execution whatſoever, competent to me in the premiſſes, with all that has followed, or may follow on the ſame; and ſurrogates and ſubſtitutes my ſaid ſon and his foreſaids, in my full right, vice and place of the premiſſes for ever; and hereby admits and declares the generality foreſaid of the ſaid aſſignation and right to the ſaid writs and evidents, to be as valid and ſufficient, and of as great force, ſtrength and effect, to all intents and purpoſes, as if the ſaid haill writs and evidents generally above aſſigned, transferred and diſponed, were, word by word, herein and at length inſerted and engroſſed, albeit not ſo done, whereanent diſpenſes for ever; and all with and under the expreſs reſervations, proviſions and conditions above ſpecified, and with the burden of the payment of the debts and childrens portions and proviſions above mentioned, and liberating and relieving me and my foreſaids of the ſame, and what relates thereto, in manner, and in the terms above expreſſed. And in like manner, I hereby make, conſtitute and ordain my ſaid ſon, and his foreſaids, which failing, as ſaid is, my ceſſioners and aſſignees, in and to the mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and

others

others above resigned, with the pertinents, of the crop and year of God ——— years, and thereafter in all time coming, and all action competent thereupon for ever; and that with and under the same reservations, provisions and conditions above written, and with the burden of the payment of the said debts and portions and provisions of the said younger children, and relieving me and my foresaids thereof, and what relates thereto, in manner, and in the terms above rehearsed (7); with full power to the said W. B. my son, and his foresaids, which failing, as said is, to intromit with, uplift, ask, crave and receive the foresaid mails, farms, profits, duties, teinds and casualties above assigned, and to use and dispone thereupon at pleasure, and to charge and pursue therefor, set and raise tenants, use warning, prosecute removing, decreets in the premisses to obtain and recover, and the same to due and lawful execution cause be put, and to do what else I might have done therein myself before the granting of these presents; obliging me, my heirs and successors, to warrant the foresaid procuratory of resignation, and infeftments to follow hereupon, lands and others therein contained, together with the said assignation and right to the said writs and evidents, mails, duties and teinds, from my own proper fact and deed allenarly; but still with and under the express reservations, provisions, conditions, and burden of payment of the debts and portions, and provisions above specified, and liberating and relieving me and my foresaids thereof, in manner, and in the terms above rehearsed (8). And because I, as parent, keep the writs and evidents in my own hand, during my lifetime, I oblige me and my foresaids, to make the same forthcoming to my said son, and his foresaids, whenever they shall have necessarily to do therewith, and I required thereto; and if they require judicial transumpts thereof in the mean time, to exhibit the same before any judge competent for that effect, they being at the charges and expences; and with power also to them, after my decease, to meddle and intromit with the charter-chest, and writs therein of my said lands and estate, as their own proper charter-chest, writs and evidents, and to be kept by him and his foresaids as such, at their pleasure, thereafter in time coming. And because, upon the matter, I liferent the one equal half of the estate, therefore, it is agreed and condescended betwixt me and my said son, that I pay and relieve him and his foresaids of the one equal half, and that he and his foresaids pay and relieve me of the other just and equal half, of all feu-duties, and other duties due and payable to the superior, ministers and schoolmasters stipends, reparation of kirks and kirk-yard dykes, communion-elements, teind, tack-duties, cesses, maintenances, outreiks, and levies of horse and foot, taxations, and other publick burdens and impositions whatsoever, due and payable forth of the stock and teind, and that of the said crop and year ——— years, and yearly thereafter, as the same falls due, and that during all the days of my said lifetime; and by the granting and acceptation of these presents, we bind and oblige us and our foresaids to one another accordingly: Consenting these presents be registered in the books of council and session, or others competent, therein to remain for conservation; and constitutes ——— my procurators, *&c.* Attour, to the effect the said W. B. may be lawfully infeft in the said lands,

lands, barony, and others above reſigned, with the pertinents, and that either to be holden of me, my heirs and ſucceſſors, in free blench, for payment of one penny Scots money, at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and relieving me of the one equal half of the feu-duties, and other duties due and payable to the ſuperiors, or to be holden of my reſpective ſuperiors, as freely as I hold the ſame myſelf, or both, in his option, I hereby make, conſtitute and ordain ———, and each one of you, conjunctly and ſeverally, my very lawful, undoubted and irrevocable baillies, to the effect after ſpecified, *(here inſert the reſt of the precept of ſeiſin, in the ordinary ſtyle; but be ſure, that before the words*, in witneſs whereof, *ye add theſe words*: And that with and under the expreſs reſervations, proviſions, conditions and declarations above ſpecified, and with the burden of the payment of the debts and portions of the younger children, and relieve me and my foreſaids thereof, in manner, and in the terms above expreſſed; *and then conclude with)* In witneſs whereof, I have ſubſcribed theſe preſents, (written by ———,) with my hand, at —— the —— day of ——— —— years, before theſe witneſſes,

Nota, By what written in the former, it is ſeen, the father truſts much to the courſe of providence, having put his ſon and heirs under no obligation of contracting debt, ſelling irredeemably, wadſetting, or granting right of annualrents, or doing or committing any other fact or deed whereby the eſtate may be appriſed, adjudged, or otherways evicted or forfeited, or redeeming ſuch appriſings or adjudications within year and day, before the expiration of the legal, elſe to amit and tine the benefit of the eſtate, and to pertain to, and devolve upon the next in order of ſucceſſion, who uſually are empowered to oblige the contravener to denude; and many like clauſes, to be found in the preceding ſignatures and ſubſequent tailzies. And becauſe the father was ſo kindly diſpoſed, I think the ſon and heirs in the tailzie ly under the more obligations to live religiouſly and virtuouſly, two great pillars and foundations to ſupport and perpetuate an eſtate.

FACTORY *by a Perſon of Quality, going forth of the Kingdom, to his Confidents, for managing his Affairs, of a large Extent, in their Power; and not unworthy of Obſervation or Imitation in the Style, ſo that the Subſcriber may have the ſame Confidence in thoſe he entruſts.*

BE it known to all men, by theſe preſent letters, us J. M. of A. *&c.* Foraſmuchas we are of intention to go out of the kingdom for a time, and that our affairs and concerns within the ſame may ſuffer by our abſence, without a ſuitable remedy for prevention thereof, and having entire confidence in Lady E. —— our dear and moſt affectionate ſpouſe, S. P. M. of O. J. M. of S. and P. S. of M. of whoſe kindneſs and affection to us and our intereſt, we have large experience: Therefore, wit ye us to have made, conſtituted and ordained, likeas we, by theſe preſents, make, conſtitute and ordain the ſaid Lady M. of A. S. P. M. J. M. and P. S. our very lawful and undoubted commiſ-

ſioners and factors, to the effect after ſpecified; with full power, ample warrant and commiſſion to them, or any two of them on life for the time, (our ſaid lady being always one, if on life) to enter and receive vaſſals, by reſignation or confirmation, or by precepts of *clare conſtat*, ſimply granted, or proceeding upon retours, and for ſuch compoſitions as they ſhall think fit; and to grant charters of confirmation, reſignation, and *clare conſtats* for that effect; but ſtill without any change or alteration of the former holdings, or diminution or converſion of any duties, caſualties or ſervices contained in the former *reddendos*; and in order to the ſaid entries, to receive reſignations in the uſual way and manner: And ſick-like, where tacks and aſſedations are or ſhall be expired, or lands in tenandry without tacks, to ſet the ſame in tack, for ſuch duties and ſervices as they ſhall think fit, (not being with diminution of our preſent rental, or diſpenſing with the preſent and accuſtomed ſervices, and other preſents, due and payable forth of our ſaid eſtate) and for ſuch time and ſpace as they ſhall judge convenient, not exceeding three years as to the duration thereof: And in like manner, to call our chamberlains and factors to an accompt, as to their intromiſſions with our lands and eſtate, both property and ſuperiority, and all omiſſions and commiſſions wherein they may be concerned, relating thereunto; and to adjuſt the ſaid accompts, and to uplift and receive our rents, feu-duties, and other duties and caſualties from them, and thereupon to grant diſcharges, which ſhall be ſufficient to the receivers; and alſo, to intromit with, uplift, aſk, crave and receive from all and ſundry perſons, our debitors, all debts and ſums of money due and addebted by them to us, whether by heritable bonds or perſonal ſecurity, or any other manner of way whatſoever, as well not named as named, bygone, preſent as to come, diſpenſing with the generality foreſaid for ever: And upon payment, acquittances, diſcharges, renunciations, and grants of redemption, or, if need beis, aſſignations, tranſlations, diſpoſitions, and other rights and conveyances thereof, to make, grant, ſubſcribe and deliver, with ſuch warrandice on our part, and in our name, as is juſt and uſual, or that our lawyers ſhall approve of, in caſe any perſon or perſons demand any farther than perſonal warrandice; and all being done on the receivers of the rights their own proper charges, moyen and expences: And with this proviſion, that the ſaid rights be granted with and under the reſervations, conditions, declarations, and other reſtrictions and limitations introduced and conceived in our favours, by any of the former rights and writs ſo to be transferred and conveyed: And likeways, in caſe of the deceaſe or malverſation of any of our baillies, chamberlains or factors, or of any members of our courts; with power to our ſaid commiſſioners, or any two of them on life, (our ſaid lady being always one, if on life, as ſaid is) to nominate, create and appoint new baillies, chamberlains, factors, and other members, in their place, and to grant to them commiſſions and factories for that effect, with duration allenarly of our pleaſure. And *laſtly* and generally, with full power, ample warrant and commiſſion to our ſaid commiſſioners and truſtees, or major part of them, (our ſaid lady being always one, if on life, as ſaid is) to manage and improve our eſtate to the beſt advantage, for our uſe, utility and profit, and to adminiſtrate therein,

therein, as if we were perſonally preſent; and in particular, our legal affairs and proceſſes wherein we may be concerned, either as purſuer or defender, and by our own lawyers and agents their conduct; and to diſburſe and expend thereupon, and in all other our concerns, as they ſhall find cauſe, and judge convenient; and, if occaſion offer, to diſpoſe of liferent and ſingle eſcheats that of the law appertain to us of right, and for ſuch compoſitions as they ſhall think expedient; we being always firſt paid, or ſufficiently ſecured for all debts, duties, or other reſts the rebels may be addebted and reſting owing to us the time of the gifts, or to ſuch other perſons of our friends and relations, who may be concerned in the ſaid rebels, whoſe eſcheats are ſo diſponed; and in the *next* place, (and after ourſelves to be preferred, if made known to our ſaid truſtees,) to employ the effects of our ſaid eſtate, and caſualties, for payment of annualrents, and principal ſums due by us, and that to any of our creditors they ſhall pleaſe, from time to time, or as they, upon any neceſſary emergency, and for our utility and profit, ſhall find convenient; promiſing to hold firm and ſtable all and whatſoever things our ſaid commiſſioners and truſtees righteouſly do, or lawfully lead to be done; and with this proviſion and condition always, that they make compt, reckoning and payment to us of their intromiſſions, by virtue of theſe preſents, deducing and allowing to them their juſt and neceſſary expences; and which commiſſion is hereby declared to continue and endure during our abſence forth of this kingdom allenarly. *(Here inſert the clauſe of regiſtration for conſervation, and ſo follow forth the ordinary ſtyle.)*

The next ſubject-matter I fall upon, is ſubmiſſions, and decreets-arbitral following thereupon; and I begin with the

SUBMISSION *paſſed betwixt Sir* G. M. *of* C. *General to his Majeſty's Forces in* Scotland, *and* R. G. *younger of* G.

THIS *blank*, on the other ſide hereof, ſubſcribed by Sir G. M. deſigned *ut ſupra*, on the one part, and R. G. deſigned *ut ſupra*, on the other part, is to be filled up with the final ſentence and decreet arbitral to be given and pronounced by Sir John Cunninghame of Lamburghtoun, advocate, as judge-arbitrator, and amicable compoſitor, neutrally and mutually elected, nominated and choſen by both parties; and to the which judge-arbitrator both the ſaid parties have ſubmitted, and by theſe preſents, ſubmit all clags, claims, debates and controverſies ſtanding betwixt them; and ſpecially, that debate and controverſy betwixt the ſaid Sir G. M. as ſuperior of the lands of C. with the pertinents, and the ſaid R. G. as appriſer thereof, anent the entry to the ſaid lands of ——, craved by the ſaid R. G. from the ſaid ſuperior; and anent the holding of the lands and change thereof, granted in favours of umquhile G. of E. by the deceaſed Sir L. F. of L. and R. M. of ——, with conſent of his neareſt of kin, conform to their claims, and anſwers to be given in by them to the ſaid arbitrator thereanent; with power to the ſaid Sir J. C. as arbitrator foreſaid,

ſaid, to decide, determine, and give forth and pronounce his final ſentence-arbitral therein, betwixt the date hereof and the —— day of —— next to come; likeas, the ſaid Sir J. C. has accepted, and by theſe preſents, accepts in and upon him, the deciſion of the ſaid matters particularly and generally above ſubmitted, and faithfully promiſes to meet and treat thereupon, and pronounce, give forth and deliver his final ſentence and decreet-arbitral therein, betwixt and the ſaid day. And however it ſhall pleaſe the ſaid Sir J. C. to decide and determine in the premiſſes, betwixt and the ſaid day, both the ſaid parties bind and oblige them, their heirs and ſucceſſors, to ſtand, remain, and abide thereat underly, and fulfil the ſame to one another, conform to the decreet-arbitral to follow hereupon, in all points; and that but any appellation, reclamation, obſtacle or again-calling whatſoever, under the pain of —— Scots money, to be paid by the party failer to the party obſerver, or willing to obſerve the premiſſes, and by and attour the ſame, and together therewith; conſenting theſe preſents, with the decreet-arbitral to follow hereupon, be inſerted and regiſtered. (*Here follow forth the regiſtration, as enjoined page* 13. *part I.* uſque ad finem.)

Nota, 1. At times, ſubmiſſions are general, ſubmitting all clags, claims, queſtions, debates, controverſies, actions, ſuits of law, debts, ſums of money, and what elſe debateable and controvertible betwixt the parties, and which they may any ways aſk, ſeek or crave of one another, and have to lay to others charges, upon whatſoever account, or for whatſoever cauſe, fact, deed, or occaſion preceding the day and date hereof, conform to their reſpective claims, and anſwers to be given in by either party, againſt others, thereanent, to the arbiter.

2. At other times, ſubmiſſions bear to ſubmit, *ut ſupra*, which is general as to that part; and then it bears theſe words: "and ſpecially, but prejudice of the generality forſaid," ſuch a particular affair, and probably more than one; and in that caſe, the ſubmiſſion is both general and ſpecial.

3. At other times, ſubmiſſions only bear ſuch a particular affair, and no generality at all; and ſo but a ſpecial ſubmiſſion. But whether the one way or the other, is no matter; and the writer is to be determined in that by the parties.

DECREET-ARBITRAL *following upon the former Submiſſion.*

AT Edinburgh, the —— day of —— —— years, anent the ſubmiſſion within written, made and ſubſcribed by Sir G. M. of C. major-general to his Majeſty's forces in Scotland, and R. G. younger of G. on the one and other parts, to Sir J. C. of L. advocate, as judge-arbitrator, and amicable compoſitor, neutrally and mutually elected, nominated and choſen by both of them, in manner within expreſſed; mentioning, that they ſubmitted to him, as judge-arbitrator foreſaid, all clags, claims, queſtions, debates and controverſies ſtanding betwixt them, and ſpecially that debate and controverſy betwixt the ſaid Sir G. M. as ſuperior of the lands of C. with the pertinents, and the ſaid R. G. as appriſer thereof, anent the entry to the ſaid lands of C. craved by the ſaid R. G. from the ſaid ſuperior, and anent the holding of the ſaid lands, and change thereof, granted in favours of umquhile

umquhile R. G. of C. by the deceaſed Sir L. F. of L. and R. M. of F. with conſent of his neareſt of kin; with power to the ſaid Sir J. C. to determine and give forth his final ſentence arbitral therein, to which the ſaid parties are obliged to adhere, and to fulfil and perform the ſame to one another, under the penalty within ſpecified, attour performance, as the within written ſubmiſſion more fully proports. And the ſaid Sir J. C. having accepted in and upon him the deciſion of the ſaid matters, debateable and controvertible betwixt the ſaid parties, the ſaid R. G. compearing before the ſaid arbitrator, and who, for himſelf, produced a diſpoſition, dated the —— day of —— —— years, granted by the ſaid deceaſed Sir L. F. of L. therein alſo deſigned ſuperior of the lands and others under written, with conſent of R. M. of F. in favours of R. G. of H. and B. G. his ſpouſe, and longeſt liver of them two in conjunct fee, and the heirs-male betwixt them, which failing, to the ſaid R. G. his other heirs-male and aſſignees whatſoever, in feu-farm and heritage for ever, of all and ſundry the towns and lands *reſpectivè* after ſpecified, *viz.* (*here the lands and others were inſert, and then*) lying within the barony of F. earldon of S. and ſheriffdom of old of J. now of ——, and obliged him to infeft them therein, to be holden of his Lordſhip, his heirs and ſucceſſors, in feu-farm, for payment of twenty pounds money of this realm yearly, at Whitſunday and Martinmas, by equal portions, and doubling the ſaid feu-duty the firſt year of the entry of each heir: *Item*, A charter granted by his Lordſhip to the ſaid R. G. his ſaid ſpouſe, and their foreſaids, of the date of the ſaid diſpoſition, and in the terms above written: *Item*, A ratification granted by the ſaid deceaſed R. M. with conſent of H. M. of ——, his brother-german, and J. M. of O. as neareſt of kin to him, then of perfect age, in favours of the ſaid R. G. his ſaid ſpouſe, and their foreſaids, of the ſaid right of feu, dated the —— day of —— —— years; and which diſpoſition and ratification are regiſtered in the books of council and ſeſſion the —— day of —— —— years; and craved, that ſince the ſaid R. G. had now right to the ſaid lands, by virtue of an appriſing, that the ſaid Sir G. M. as ſuperior thereof, might grant to him an entry therein, or to any perſon he ſhould diſpone the ſame to, and that he might ſubſcribe a charter for that effect, in the terms of his author's charter above ſpecified, and for which he was content to pay a reaſonable compoſition: And the ſaid Sir G. M. compearing before the ſaid arbitrator, for himſelf, produced the writs following, *viz.* A decreet of appriſing deduced at his inſtance, the —— day of —— —— years, againſt J. M. now of F. for himſelf, and as lawfully charged to enter heir in ſpecial to the deceaſed R. M. of F. his father, the deceaſed R. M. his grand-uncle's ſon, the deceaſed Sir H. M. of F. Sir H. M. of F. his ſon, or one or other of them, who died laſt veſt and ſeiſed in the ſaid lands and barony of F. with the parts and pendicles; particularly, with the ſuperiority of the ſaid lands of C. with the pertinents, with certain contracts, reverſions, and other writs and evidents competent, or that might be competent to him, if he were entered heir to them, as ſaid is, of and concerning the ſaid lands and ſuperiorities; and namely, a contract paſſed betwixt the ſaid S. Lord L. and the ſaid deceaſed R. M. of F. whereby, as the ſaid R. M. diſponed the ſaid lands, ſuperiorities, and his whole other eſtate to his Lordſhip, ſo his Lordſhip granted the reverſion thereof,

thereof, *in gremio*, to the ſaid R. M. his heirs-male; and which contract is dated the —— day of —— —— years, and another bond granted by his Lordſhip, relative thereto, obliging him to perform divers other heads concerning the ſaid eſtate, and reverſion thereof, in favours of the ſaid heirs-male, and another contract, dated the —— day of —— —— years, betwixt H. Lord F. of L. ſon and heir to the ſaid S. Lord L. and who ſtood infeft in the ſaid lands and eſtate, and the deceaſed C. R. M. tutor of F. whereby his Lordſhip acknowledged the tenor of the ſaid reverſion ſatisfied, by intromiſſion and otherways, and therefore obliged him and his heirs, to denude *omni habili modo*, of the ſame, in favours of the ſaid heirs-male of F. and to perform ſeveral other conditions relating thereto, reverſions, teinds and others belonging to the ſame, for payment to the ſaid Sir G. M. of the ſums therein ſpecified, extending in manner therein mentioned, and allowed by the Lords the 27th day of the ſaid month: *Item*, Another appriſing of the ſaid lands and eſtate, the lands of C. fiſhings thereof, and others, and all right of reverſion of the ſaid eſtate, and all other right competent of the ſame, led and deduced at the inſtance of the deceaſed J. C. of D. againſt the deceaſed H. M. brother's ſon, and lawfully charged to enter heir to the deceaſed R. M. of F. his father's brother, and his tutors and curators, the 25th day of January 1648 years, allowed by the ſaid Lords the 28th of the ſaid month, for payment of the ſums therein expreſſed: *Item*, The ſaid Sir G. M. his right and diſpoſition to the ſaid appriſing, and upon which two compriſings the ſaid Sir G. M. ſtands now infeft in the ſaid barony of F. C. and others foreſaid: *Item*, A decreet obtained by the ſaid Sir G. M. before the Lords, in November 1669 years, againſt the late deceaſed H. L. L. as lawfully charged to enter heir to his deceaſed father, and the ſaid deceaſed H. and S. Lord F. his grand and great-grandfathers, finding and declaring the ſaid Lords of L. their right to the ſaid haill lands and eſtate of F. to be ſatisfied and extinct, by payment of all the debts reſting to them by, or wherein they ſtood engaged for, the family of F. and the reverſion granted by them to the ſaid heirs-male of F. thereby fulfilled; and therefore, ordaining the ſaid late deceaſed H. L. L. to denude in favours of the ſaid Sir G. M. of the ſaid barony of F. C. and others pertaining to him, and to grant diſpoſitions, procuratories, and others neceſſary and requiſite for that effect: *Item*, A warrant obtained by the ſaid Sir G. M. from the ſaid Lords, ordaining the director of the chancellary to emit precept for infefting him therein, as he who diſcuſſed the ſaid L. L. and uſed exact diligence againſt him by horning, and otherways; and according whereunto, he was infeft: And after the ſaid production, the ſaid Sir G. M. declared, he, as ſuperior, was content to receive the ſaid R. G. in-vaſſal, in the ſaid lands of C. with the pertinents, upon payment of one year's rent, conform to the act of parliament, and holding the lands by ſervice of ward and relief, of the ſaid ſuperior and his ſucceſſors, as the ſaid deceaſed R. G. held the ſame, before the ſaid pretended right of feu, as the ſeveral claims given in by both parties thereanent, bears the rights, reaſons, and allegations of both parties, together with their ſeveral claims, anſwers and inſtructions thereof aforeſaid, being by the ſaid arbiter heard, ſeen and conſidered, and he therewith being well and ripely adviſed, and having alſo God and a

good

good conſcience before his eyes, he has given forth and pronounced, and by theſe preſents, gives forth and pronounces his decreet and final ſentence-arbitral in the ſaid matter, as follows: In the firſt, the ſaid judge-arbitrator finds, that the ſaid diſpoſition and charter, granted by the ſaid S. L. L. with conſent of the ſaid deceaſed R. M. of F. whereby the ſaid lands of C. and others foreſaid, pertaining to the ſaid deceaſed R. G. were changed from ward to feu, are reducible at the inſtance of the ſaid Sir G. M. as he who has now right thereto, by appriſing deduced againſt the ſaid J. and H. M. as lawfully charged to enter heirs *reſpectivè* to the ſaid deceaſed R. M. who diſponed to the ſaid S. L. L. and as he who has reduced and extinguiſhed the ſaid Lord his right, by the ſaid decreet of declarator; and conſequently, that the ſaid Sir G. M. who is now ſuperior of the ſaid lands of C. and others foreſaid, belonging thereto, is not holden and obliged to grant the ſaid R. G. a feu-charter upon his ſaid appriſing, but only a charter to be holden of him and his ſucceſſors ward, as the lands were holden before the granting of the ſaid diſpoſition and feu-charter; and that the conſent of the ſaid deceaſed R. M. of F. and ratification of the ſaid H. M. of C. and R. M. of O. as then neareſt of kin, of age, does not perfect and corroborate the ſaid diſpoſition and charter of feu, in regard it is not inſtructed, that they were ſerved or infeft as heirs-male to the ſaid deceaſed R. M. who diſponed the eſtate to the ſaid S. L. L. and having likeways taken trial and information anent the rental and yearly duty of the ſaid lands, feu, and now ward-lands, the ſaid judge-arbitrator, finds the ſame to be about ſix chalders of victual, or ſix hundred merks, counting victual at one hundred merks the chalder; and having regard to the deduction for teind, and that the ſaid B. G. who was infeft jointly with the ſaid deceaſed R. G. her huſband, in *anno* 1628, is yet living, by theſe preſents, decerns and ordains the ſaid R. G. to pay to the ſaid Sir G. M. as ſuperior foreſaid, the ſum of three hundred merks, in name of compoſition, for his entry; and likeways, decerns the ſaid Sir G. M. upon payment thereof, to infeft the ſaid R. G. or any perſon he ſhall conſtitute aſſignee upon his ſaid appriſing, in the ſaid lands of C. with the pertinents mentioned in the ſaid late feu-charter, and to ſubſcribe a charter for that effect, to be holden of the ſaid Sir G. M. and his ſucceſſors in the ſaid ſuperiority, by ſervice of ward and relief, and for payment of the duties, rights and ſervices thereof uſed and wont. And the ſaid judge declares, that this his decerniture ſhall be without prejudice of any action competent to the ſaid R. G. againſt the repreſentatives of thoſe who feued out the ſaid lands, as accords; and this his decreet-arbitral, to all whom it effeirs, he hereby notifies and makes known, and ordains the ſaid parties to fulfil the ſame to one another, conform to the tenor thereof, in all points; and the party failer, to pay to the party obſerver, or willing to obſerve the ſame, the penalty within mentioned, attour performance; and the ſaid judge decerns, and the ſaid parties conſent, the ſaid ſubmiſſion and decreet-arbitral to be regiſtered in the books within ſpecified, that a decreet be interponed, and letters thereupon paſs, in manner, and on the days within expreſſed. In witneſs whereof, the ſaid judge, in token of his acceptance, ſubſcribed the ſaid ſubmiſſion; and the ſaid parties have ſubſcribed the ſame, with this blank now filled up, with their hands, day, place, year, and before

the

the witneſſes within mentioned; and the ſaid judge has ſubſcribed the ſaid decreet-arbitral, day and place above ſpecified, before theſe witneſſes,

At other times, ſubmiſſions are made, and the parties nominate two arbitrators the hand, with power to the four, or *major pars*, to determine; and at other times, there is an overſman nominate, in caſe of variance; and at other times, the parties nominate no overſman, but give power to the arbitrators, in caſe of variance amongſt themſelves, to chuſe and nominate an overſman, as in the caſe following. But in this there is no certain rule, being optional for the parties to ſubmit in what terms they pleaſe, to whom they will, and with what latitude or limitations they think fit; and becauſe of that, and that there is a ſubmiſſion already ſet down, I omit it here.

DECREET-ARBITRAL *pronounced by the Overſman nominated by the Arbitrators, not the Parties.*

AT ——, the —— day of —— —— years, anent the ſubmiſſion within ſpecified, made and ſubſcribed by the within named P. S. of M. on the one part, and by the within named T. G. younger of B. for himſelf, and taking burden on him for J. G. of B. his father, on the other part, to the within named J. H. of M. as judge-arbitrator and amicable compoſitor, elected, nominated and choſen for the part of the ſaid P. S. and to the within named M. J. B. of B. as judge-arbitrator and amicable compoſitor, elected, nominated and choſen for the part of the ſaid T. G. and in caſe of variance betwixt them, to any perſon the ſaid arbitrators ſhould pleaſe chuſe as overſman, of all and whatſoever clags, claims, queſtions, debates, controverſies, actions, ſuits of law, and others whatſoever, debateable and controvertible betwixt the ſaid parties, conform to the reſpective claims, and anſwers to be given in by them to the ſaid arbitrators or overſman, in caſe of variance betwixt them, thereanent, holden as for expreſſed in the ſaid ſubmiſſion, *brevitatis cauſa;* with power to the ſaid judges arbitrators, or, in caſe of variance betwixt them, to the overſman, to have been nominated and appointed by them, to meet and treat thereupon, and to pronounce and give forth ſentence therein, betwixt and the day within expreſſed; and however the ſaid judges or overſman determined, the ſaid parties obliged them, their heirs and ſucceſſors, to ſtand, remain and abide thereat, and to underly and fulfil the ſame to one another, conform to the decreet-arbitral to follow thereupon, in all points, without any appellation, reclamation, or again-calling whatſoever, under the penalty within mentioned, attour performance; and the deciſion of which matters, the ſaid judges arbitrators accepted in and upon them; and after ſeveral meetings had therein, and not agreeing, nominated, elected and chuſed Sir J. C. of L. advocate, to be overſman, and devolved the power in his favours and perſon, in manner written on the end of the ſaid ſubmiſſion, upon the —— day of —— laſt bypaſt; and accordingly, the ſaid parties having made application to the ſaid Sir J. C. earneſtly intreating him to accept of the ſaid reference made to him as overſman, by the ſaid judges-arbitrators, for deciding of the ſaid debateable matters, the ſaid Sir J. C. accepted in and upon him

him the deciſion thereof; and both parties having, in order thereto, given in and exhibited to the ſaid Sir J. C. as overſman foreſaid, their reſpective claims and anſwers made thereto, *hinc inde*, together with their reſpective rights and infeftments, and other documents, inſtructions and adminicles requiſite for clearing their ſeveral pretences; all which the ſaid Sir J. C. as overſman foreſaid, not only read and peruſed at full length, but alſo, and for his better information and greater ſatisfaction in the matter, convened the ſaid parties before him, and heard them fully as to all points in differ, and controverted betwixt the ſaid P. S. and the ſaid T. G. and his ſaid father; and the ſaid Sir J. C. as overſman foreſaid, after great pains, ſerious conſultation, and mature deliberation had and taken by him in the matters debateable and controvertible betwixt them, and contained in either party's claim, and having God and a good conſcience before his eyes, has pronounced, given forth and delivered, and by theſe preſents, pronounces, gives forth and delivers his decreet and final ſentence-arbitral upon the whole matter, as follows: In the firſt (*here I omit the particulars decerned, as extraneous to ſtile, being only the concern of private perſons, relating to many particulars, as debts, property of a mill, encroachments upon a foreſtry, and the like, and abſolvitor as to ſome particulars, and annualrent as to ſums advanced, albeit the ground thereof did not bear ſo, but a letter of credit and damage in other caſes modified, and a clear march for the future laid down, as to the mill and foreſtry, and then follows*) And finally, the ſaid overſman decerns and ordains both parties to fulfil the premiſſes to one another, under the penalty within expreſſed, to be paid by the party failer, to the party obſerver, or willing to obſerve the ſame, and that by and attour performance thereof, and together therewith; and the ſaid parties ſubmitters conſent, and the ſaid overſman ordains this preſent decreet, with the ſubmiſſion, reference and acceptation within written, to be inſert and regiſtered in the books within ſpecified, that a decreet of the judges within mentioned, may be interponed thereto, and all execution paſs thereupon, in manner, and upon the days within expreſſed; and the ſaid parties conſtitute the within named advocates their procurators, *&c.* for that effect. In witneſs whereof, the ſaid parties have ſubſcribed theſe preſents, written by ———, with their hands, day, month, year and place, and before the witneſſes within named; and the ſaid overſman has ſubſcribed theſe preſents, with his hand, day, month, year of God, and place *reſpectivè* foreſaid, before theſe witneſſes,

Nota, This being a decreet, I know no reaſon why there ſhould be witneſſes to the judges ſubſcription, or that by whom written ſhould be mentioned, as in other papers which the law appoints; but being cuſtomary to obſerve, it is no error.

PRÆCEPTUM *Clare Conſtat.*

IM. A. ſuperior terrarum aliorumque ſubtus ſcriptorum, cum pertinentiis, dilectis noſtris —— et veſtrum cuilibet, conjunctim et diviſim, balivis noſtris in hac parte, ad effectum ſubtus ſpecificatum, ſpecialiter conſtitutis, ſalutem, Quia per (2) authentica inſtrumenta et documenta, coram nobis exhibita et oſtenſa clare conſtat, et eſt notum, (3) Quod quondam J. G. portionaria de G. et mater R. C. filii legitimi natu maximi A. C. filii legitimi natu maximi P. C. portionarii de G. procreati inter dictum A. et J. C. latoris preſentium, obiit ultimo veſtita et ſaſita, ut defeodo ad fidem et pacem, in tota et integra quinta parte villæ et terrarum de G. cum domibus, &c. (ut in ſaſina) jacente infra parochiam de F. baroniam de G. et vicecomitatum de P. et quod præfatus R. C. eſt legitimus et propinquior hæres prænominatæ quondam J. G, ejus matris, et quod eſt legitimæ ætatis, et quod prædictæ terræ de nobis et hæredibus et ſucceſſoribus noſtris in feudefirma immediate in capite tenentur, pro annua ſolutione totarum feudefirmarum, aliarumq; divoriarum, carriagiorum et ſervitiorum in originalibus infeofamentis prædeceſſoribus dictæ J. G. de ſuper conceſſis contentorum; vobis igitur præcipimus et firmiter mandamus, quatenus viſis preſentibus, indelate ſtatum ſaſinam hæreditariam pariter et poſſeſſionem actualem, realem et corporalem, totius et integræ predictæ quintæ partis dictæ villæ et terrarum de G. cum domibus (ut in ſaſina) jacentis ut prefertur, denominato R. C. tanquam legitimo et propinquiori hæredi prædictæ J. G. ejus matris, vel ſuo certo actornato latori preſentium, per terræ et lapidis fundi dictarum terrarum ſuper ſolo earundem iis traditionem et deliberationem, ut moris eſt, ſecundum formam et tenorem hujuſmodi in omnibus, et quod de nobis inde habetis, juſte haberi faciatis, tradatis et deliberetis; et hoc nullo modo omittatis ad quod faciendum, vobis et veſtrum cuilibet conjunctim et diviſim, balivis noſtris in hac parte antedictis, noſtram plenariam et irrevocabilem, tenore preſentium, committimus poteſtatem, ſalvo jure noſtro proprio et jure cujuſlibet prout de jure. In cujus rei teſtimonium, huic preſenti precepto noſtro clare conſtat, ex chirographo M. J. D. filii legitimi G. D. de S. manibuſque noſtris ſubſcripto, ſigillum noſtrum proprium eſt appenſum, apud —— —— die menſis —— anno Domini milleſimo ſexcenteſimo —— coram his teſtibus,

Nota, There is another *clare conſtat* founded upon a ſpecial retour, and differs from the former in nothing, but the leaving out the words betwixt the (2) and (3) figure in the former, and in place thereof, add theſe words: "Inquiſitionem factam et ad cancellariam "S. D. N. regis retornatam compertum eſt, quod," and then follow forth the former draught, *uſque ad finem.*

Nota, Some ſuperiors will have the feu-duty, carriages, ſervices, and what elſe in the *reddendo* of the laſt feu charter, particularly ſet down in the *clare conſtat*, which is no prejudice to the vaſſal, and juſt for the ſuperior to have, if he deſire it; for ſhould the ſuperior intend improbation, reduction or declarator of the vaſſal's right, he would be obliged to produce the laſt infeftment, bearing the particular *reddendo*, even albeit there be a *clare conſtat* in the general terms, becauſe it refers the ſpecifick duties to the original infeftment; whereas, were the *clare conſtat* ſpecial as to the *reddendo*, it would ſatisfy the production.

TACK,

TACK, *or rather Subtack, by the principal Tackſman to an Heritor, of his Teinds, Parſonage and Vicarage; and containing alſo a Ratification of the former Tack.*

BE it known to all men, by theſe preſent letters, us G. Earl of C. Lord S. *&c.* and principal tackſman of the teind-ſheaves of the pariſh of L. and vicarage-teinds of the ſame, and thereby having undoubted right and intereſt thereto, and to uſe and diſpone thereupon at our pleaſure, in time coming, during the haill ſpace contained in our tacks and rights thereof: Foraſmuchas the deceaſed noble and potent Earl, G. E. of C. *&c.* as tackſman of the teind-ſheaves, and vicarage-teinds of the ſaid pariſh, by his letter of tack and aſſedation, of the date the 20th day of November 1599 years, for the cauſes therein ſpecified, ſet in tack and aſſedation to the deceaſed A. S. grandfather to G. S. now of F. and J. G. his ſpouſe, and longeſt liver of them two, during all the days of their lifetime; and after their deceaſe, to the heirs-male to have been begotten betwixt them; which failing, to the deceaſed A. S. his heirs-male and aſſignees whatſoever, for the ſpace of nineteen years, all and haill the teind-ſheaves of all and haill the towns, lands, and others of the barony of F. with the vicarage-teind of the ſame, and univerſal emoluments, caſualties and pertinents belonging thereto, uſed and wont, except the teind-ſheaves of R. ſet off before to A. H. conform to the tack made thereanent, lying within the ſaid pariſh of L. and ſheriffdom of C. beginning their entry to the ſaid vicarage-teinds at Beltan then next, and to the ſaid teind-ſheaves at Lammas thereafter, for yearly payment of twenty-eight pounds Scots money for the ſaid teind-ſheaves, and forty ſhillings money foreſaid, for the ſaid vicarage-teinds, as teind-ſilver of the ſame, extending in all to thirty pounds money above written, at two terms in the year, Whitſunday and Martinmas, by equal portions, beginning the firſt term's payment at Whitſunday 1600 years, and ſo forth thereafter, during the haill ſpace of the ſaid tack, as the ſame, of the date foreſaid, in itſelf more fully proports. And we, taking to conſideration the cauſe for which the foreſaid tack was granted, being partly for love and favour, and partly for onerous cauſes; and alſo, that there is ſeveral years of the ſaid tack yet to run, whereunto the ſaid G. S. now of F. has right, as heir to his ſaid grandfather; and we being moſt willing, not only to ratify and homologate, but alſo to prorogate the foreſaid tack, in manner, and for the cauſes after ſpecified: Therefore, and for the love and favour which we have and bear towards the ſaid G. S. and for good, faithful and thankful ſervices done and performed to us and our family by him, and for his encouragement to continue and perſevere in performing the like dutiful ſervices for the future; and likeways for ſums of money paid and delivered by him to us, at, and for the making and granting of theſe preſents, whereof we grant the receipt, and diſcharges him thereof for ever; as alſo, for certain other onerous cauſes, good reſpects and conſiderations moving us; wit ye us, not only to have ratified and approven, and by theſe preſents, ratify and approve the foreſaid.

ſaid tack and aſſedation, granted by the ſaid deceaſed G. E. of C. our great-grandfather, to the ſaid deceaſed A. S. and his ſaid ſpouſe, and their foreſaids, in the haill heads, articles and clauſes thereof, during the haill ſpace therein contained as yet to run; and promiſes never to reduce, quarrel or impugn the ſame, or come in the contrary thereof, directly or indirectly in judgment, nor outwith the ſame in time coming, but alſo to have of new ſet, and in tack and aſſedation letten, and by theſe preſents, ſet, and in tack and aſſedation, for the onerous cauſes above written, and others moving us, as ſaid is, and alſo for the tack-duty under written, let to the ſaid G. S. now of F. and the heirs-male lawfully procreate, or to be procreate of his body, which failing, to his heirs-male and aſſignees whatſoever, all and haill the foreſaid teind-ſheaves, and vicarage-teinds of the foreſaid haill towns, lands, and others of the ſaid lordſhip and barony of F. and univerſal pertinents, emoluments and caſualties belonging thereto, uſed and wont, lying as ſaid is, excepting in manner above excepted, and that for all the days, ſpace, years and terms of —— years next and immediately following their entry thereto, by virtue of theſe preſents, which is hereby declared to be as follows, *viz.* To the ſaid teind-ſheaves at the firſt term of Lammas, and to the ſaid vicarage-teinds at the firſt feaſt and term of Beltan next and immediately following the iſh and expiration of the foreſaid tack, granted by our ſaid great-grandfather, and ratified and approven by us, as ſaid is, when the ſame ſhall happen, and thereafter to continue and endure during the haill ſpace of this preſent tack, and ay and while the iſh thereof, but interval or breach of terms; with full power to the ſaid G. S. and his foreſaids, during the ſaid ſpace, to teind, lead, ſtouck, ſtack, collect, intromit with, uplift, aſk, crave and receive the foreſaid teind-ſheaves, and vicarage-teinds of the ſaid lands, and others above mentioned, excepting as is above excepted, and to apply the ſame to their own proper uſes, inhibitions thereupon to raiſe and cauſe be ſerved, actions of ſpuilzie, wrongous intromiſſion, and others requiſite thereanent, to intent, move and purſue before whatſoever judge or judges competent, decreets thereanent to recover, letters thereupon to raiſe, and the ſame to due execution cauſe be put, compone and agree thereanent, and thereupon to grant diſcharges, and to do all other things anent the premiſſes, as freely in all reſpects as we might do therein ourſelves before the granting of this preſent tack and aſſedation; which we bind and oblige us, our heirs and ſucceſſors, to warrant, acquit and defend, to be good, valid and ſufficient to the ſaid G. S. and his foreſaids, during the ſpace above ſpecified, at all hands, and againſt all deadly; paying therefore yearly the ſaid G. S. and his foreſaids, to us, our heirs and aſſignees, factors or chamberlains in our name, having our power for the time, the foreſaid ſum of thirty pounds of tack-duty contained in the former tack, whereof twenty-eight pounds money for the ſaid teind-ſheaves, and forty ſhillings money foreſaid, for the ſaid vicarage-teinds, in name of tack-duty, and that at two terms in the year, Whitſunday and Martinmas, by equal portions, beginning the firſt term's payment thereof at the firſt term of Whitſunday after their ſaid entry, and ſo forth yearly and termly thereafter, at the ſame terms, and by equal portions, as ſaid is, during the haill ſpace of this

tack,

tack, and ay and while the iſh and expiration thereof, for all other burden, exaction or demand that can be any ways aſked or required forth of the ſaid teinds, parſonage or vicarage, by whatſoever perſon or perſons in time coming, during the ſaid ſpace. *(Follows the clauſe of regiſtration.)*

TACK *betwixt an Heritor and his Tenant.*

AT ——— the ——— day of ——— ——— years: It is contracted, agreed and ended betwixt A. B. of ——— and J. M. in ——— on the one and other parts, in manner following: That is to ſay, The ſaid A. B. has ſet, and in tack and aſſedation, for the duty under written, letten, and by theſe preſents, ſets, and in tack and aſſedation, for the duty under written, lets to the ſaid J. M. and his heirs and ſubtenants, of no higher degree than himſelf, all and haill the ſaid A. B. his lands of ——— *(here inſert all agreed upon to be ſet, whether only ſtock, or ſtock and teind, and then ſay)* lying within the pariſh of ——— and ſheriffdom of ———, and that for all the days, ſpace, crops and years of ——— next and immediately following the ſaid J. M. his entry thereto, which, for the houſes and graſs, is to be and begin at the term of Whitſunday next to come; and as to the lands, at the ſeparation of the crop from the ground the ſaid year, and ſo forth to continue and endure, and to be peaceably poſſeſſed, bruiked and enjoyed by him and his foreſaids, during the haill ſpace of this preſent tack, and ay and while the full iſh and expiration thereof, but any interval, interruption, or breach of term whatſoever; and the ſaid A. B. binds and obliges him, his heirs, executors and ſucceſſors, to warrant, acquit and defend this preſent tack to the ſaid J. M. and his foreſaids, during the ſpace above ſpecified, at all hands, and againſt all deadly: For the which cauſes, the ſaid J. M. by theſe preſents, faithfully binds and obliges him, his heirs and executors, to content and pay to the ſaid A. B. his heirs and aſſignees, all and haill *(here take in the tack-duty, both victual and its quality, ſilver-rent, cuſtoms and carriages, according to the pure agreement betwixt the parties, and then ſay)* and that yearly, during the whole ſpace of the ſaid tack, beginning the firſt year's payment of the ſaid victual-duty betwixt Yule and Candlemas ——— years; and the firſt term's payment of the ſaid money-rent at the term of ——— and the firſt term's payment of the cuſtom-wedders at ——— and of the hens and capons at ——— and of the arrages and carriages at the times uſed and wont, and ſo forth yearly and termly thereafter, at the terms and times of payment above mentioned, during the whole ſpace of the ſaid tack. And both parties bind and oblige them and their foreſaids, to fulfil and perform the ſaid tack to one another, and the party failer to content and pay to the party obſerver, or willing to obſerve the ſame, the ſum of ——— money foreſaid, in name of liquidate penalty, in caſe of failzie, and that by and attour the ſame,

fame, and together therewith, (*After this inſert a clauſe of regiſtration, according to the ſtyle of contracts, and you will find a horning upon the ſame contract, p. 57.*)

Nota, In ſome tacks, there is a mill ſet with the land, which pays either a victual-duty (as for the moſt part they do) or ſilver-rent, which falls out ſeldom; but, however it go, the victual-duty ordinarily is payable at the Lammas; at which term the tackſman enters to the mill, at the next term of Lammas after the entry, being a full year; but ſome tackſmen oblige themſelves to pay the victual-duty at the ordinary term of payment of victual, without diſtinction, and take their hazard of the thirlage; and if money-rent, at the Lammas after the entry. And ſome millers pay cuſtoms and a gatt; and in the caſe foreſaid of a mill, the perſons thirled muſt be obliged to maintain the dams and water-gangs, and the heritor bound to maintain the thirlage, according to uſe and wont; and both heritor and miller bound to one another, to maintain the mill in walls, door, roof, ſpouts, wheels and ſtool, and the like, by halves, or two part and third, according to the cuſtom of the country.

2. The miller, in his tack, at times (when the thirlage is great eſpecially) has power, not only to purſue the abſtracters, but alſo to ſeize what abſtracted, and to break quirns, and the like privileges. And at other times, the meaſure and duties of the mill are condeſcended upon, and conſtituted, with the under-miller and knave their dues, that thoſe thirled may not be impoſed upon, or the ordinary courſe of the mill-dues tranſgreſſed or ſtretched, by the arbitrary power of a miller or his ſervants.

Nota, If there be a mill ſet, and a particular duty payable therefore, as ſaid is, the ſtyle of the fore-mentioned horning, p. 57. will in ſo far alter; and yet that of the mill, and its duty, may in the horning be ſuperadded immediately before the clauſe of performance, *hinc inde*; and the penalty, and the will of the letters being conform, and without variation from the true words of the obligation in the tack, makes the ſtyle of the letters warrantable.

CHARTER-PARTY *betwixt a Merchant and a Skipper, for tranſporting Victual, or other Goods.*

AT ——— the ——— day of ——— ——— years: It is contracted, agreed and ended betwixt A. B. ſkipper and maſter of the good ſhip called the ——— on the one part, and C. D. merchant burgeſs of ——— on the other part, in manner following: That is to ſay, The ſaid A. B. has ſet, and for the freight and other dues after ſpecified, letten, and by theſe preſents, ſets, and and for the freight and other dues under written, lets to the ſaid C. D. his ſaid ſhip called the ———, from the harbour of ———, where ſhe now lies, to the port after mentioned, and to the effect after expreſſed; and binds and obliges him to have his ſaid ſhip in readineſs, with maſts, ſails, tows, cables, anchors, float-boat, and other neceſſaries and proviſions, with expert ſeamen; and, (wind and weather ſerving) to ſail from the ſaid harbour of ——— to the port of ———, and there to remain and await by the ſpace of ———, weather, work, ly-days, for receiving in of ——— bolls bear, or other goods the ſaid C. D. or his order pleaſes ſet aboard; and for which the ſaid C. D. is to give to the ſaid A. B. a bill of loading,

loading, to clear what ſet aboard, as well as the ſaid A. B. is to give him a receipt of the victual, or other goods to be ſet aboard, as ſaid is; and, (wind and weather ſerving) to ſail from the ſaid port or harbour of ——— to the ſaid harbour of ———, where ſhe now lies, (all hazard by ſea excepted) and to remain and abide at the ſaid port of ——— by the ſpace of ———, weather, work, ly-days for unloading of the ſaid victual, or other goods, and to keep his ſaid ſhip ſufficiently water-tight, ſo as the ſaid victual, or other goods, may not be damnified in the return homeward, and that no part thereof ſhall be embezzled by himſelf or ſeamen. For the which cauſes, the ſaid C. D. binds and obliges him, his heirs and executors, to content and pay to the ſaid A. B. his heirs and aſſignees (ſecluding executors) the ſum of ——— Scots money, in name of freight, for the ſaid voyage, with the ſum of ——— money foreſaid, each day the ſaid A. B. his ſaid ſhip and mariners ſhall remain at either of the ſaid ports, attour the ly-days above ſpecified, in default of the ſaid C. D. with towage, rowage, anchorage, average, petty pilotage, lights of May, and other dues, according to the cuſtom of the ſea, and that within ——— hours after the ſaid A. B. his livering and unloading of the ſaid victual, or other goods in his ſaid ſhip, within the ſaid harbour of ———, with ——— of Caplagan. And both parties oblige them and their foreſaids, to fulfil and perform the premiſſes to one another, and the party failer to pay to the party-obſerver, or willing to obſerve the ſame, the ſum of ——— in name of liquidate penalty, in caſe of failzie, and that by and attour performance, and together therewith.

Nota, It is the ſkipper's intereſt to take inſtruments the day of his arrival at the port to which he is bound, and the like, when the ly-days are elapſed, if before then he be not loaded; and the like, when he unloadens at the port appointed, in caſe his freight be not duly paid, and his bill of average, according to the cuſtom of the ſea, being two parts to the merchant, and the third to the ſkipper; for, in caſe the ſkipper be obliged, for his payment, to uſe diligence againſt the merchant, the production of thoſe inſtruments, with the charter-party, regiſtered, makes a clear horning, and the penalty the more favourable to the ſkipper in the diſcuſſing of a ſuſpenſion, if any be raiſed; and you will find the like horning raiſed on the like grounds at a ſkipper's inſtance againſt the merchant, p. 30.

Nota, There be as many letters of horning as there be ſubject-matters, and upon the ſeveral grounds thereof, whether heritable bonds, contracts of wadſet, proper or improper, diſpoſitions of lands, tenements, or the like, whether principally granted, or upon diſpoſitions apart granted in real warrandice thereof, bonds of proviſion to children, contracts of victual betwixt an heritor and a merchant, who buys the victual, or betwixt a merchant and a ſkipper, the ſkipper being bound to tranſport the victual from port to port, and the merchant bound to pay the freight, *&c.*; a minute of contract anent the ſale of lands, and payment of the price; contracts or indentures of marches; tacks betwixt the heritor and tenant, and other contracts, as to various ſubject-matters; moveable bonds, either for payment of money, or performance of deeds; decreets before parliament, privy council, exchequer, ſeſſion, Lords of the plat, ſheriffs, commiſſaries, baillies of regalities, ſtewartry or burghs-royal, and at the inſtance of appriſers or adjudgers, againſt the ſuperiors, being ſubjects: And accordingly, charges of horning may be given; and the perſons charged, if injured, do uſually ſuſpend, and obtain ſuſpenſion, if the reaſons be found relevant, either upon conſignation or ſufficient caution; and at times, upon conſignation of a part, and finding caution *pro reliquo*. And to ſet down a ſtyle of all theſe bonds of caution, were tedious, and, in effect, unneceſſary; for the writer of the ſuſpenſion drawing the bond of caution,

caution, and obſerving the method following, can hardly err, changing the judge before whom the decreet is obtained, or other ground of the charge.

I A. B. of ——, by theſe preſents, bind and oblige me, my heirs, executors and ſucceſſors, as cautioners and ſureties, acted in the books of council and ſeſſion, for C. D. of ——, that in caſe it be found by the Lords of council and ſeſſion, after diſcuſſing of the ſuſpenſion, raiſed by the ſaid C. D. in the matter under written, that he is holden, and ought and ſhould *(here take in the words of the charge, as to the mandatory part, with the ground thereof, date of the ſame, and where regiſtered, if the ground of the charge be a writ regiſtered; and if the charge be at the inſtance of an aſſignee, or of a perſon to whom tranſferred, it muſt be mentioned, and the dates of the aſſignation; and if tranſferred, the dates of both mentioned, as in the charge of horning; and if a decreet, mention the judge before whom pronounced, and date thereof, and then ſay)* That the ſaid C. D. ſhall do therein according to the ſaid Lords their decreet and declarator to be given and pronounced thereanent. *(And if there be relaxation, the clauſe is to be added thus)* And alſo, ſhall make payment to the Lords of his Majeſty's treaſury, or Lord high treaſurer and treaſurer-depute, (*if the conſtitution of exchequer run ſo for the time*) for his Majeſty's uſe, of the ſum of twenty merks for his eſcheat goods, in caſe it be found by the ſaid Lords that he is orderly denounced rebel, and put to the horn, for the cauſe foreſaid. And I the ſaid C. D. bind and oblige me, my heirs, executors and ſucceſſors, to warrant, free, relieve, harmleſs and ſkaithleſs keep my ſaid cautioner and his foreſaids, of his ſaid cautionry, and of all coſt, ſkaith, damage, intereſt, charges and expences that they ſhall happen to ſuſtain or incur therethough, directly or indirectly, by whatſoever manner of way, in time coming. Conſenting theſe preſents be regiſtered, *&c.* (*bearing only letters in form as effeirs, becauſe the new horning, however, being founded upon a decreet of ſuſpenſion, after diſcuſſing, behoved to be on fifteen days; and being alſo founded upon the bond of cautionry againſt the cautioner, when extracted, muſt have a bill, and ſo is but one work for all, and without confuſion of days, as ſix, ten or fifteen, as has been formerly obſerved.*)

A CHARTER

A CHARTER *granted by* J. E. *of* B. *Lord* A. *to his three Daughters, Ladies* M. A. *and* E. A. *procreate betwixt him and Lady* M. D. *Counteſs of* B. *by whom he had the Eſtate; it is to them of an annualrent of three thouſand Merks a-year, by a tripartite Diviſion, and to their Heirs and Aſſignees; and failing of any one of them unmarried, to the other two by a bipartite Diviſion; and failing one of the two, her Portion reverts to the Family. This bears a Reverſion to the Father, at any Time in his Lifetime, by Payment or Conſignation of an Angel of Gold to each, or ten Merks as the Value, but redeemable only by the Heirs, upon Payment or Conſignation of thirty thouſand Merks; and contains many other good Clauſes, holds of my Lord and his Heirs Blench; and a moſt excellent Style, both as to the Form and* Latin.

OMNIBUS hanc cartam, viſuris vel audituris, J. C. B. Dominus de A. hæreditarius proprietarius terrarum aliorumque ſubſcriptorum, ſalutem in Domino ſempiternam, quia virtute quarundam literarum obligatariarum per nos dilectis noſtris filiabus, Dominis M. A. et E. A. inter nos et quandam chariſſimam noſtram conjugem, Dominam M. D. Comitiſſam B. procreatis, factarum tenemur et aſtringimur, in una parte earundem, dictas noſtras filias, hæredes eorum et aſſignatos ſubtus ſcriptos, in toto et integro annuo redditu ſubtus ſpecificato, modo quo ſubtus, infeodare, hocque pro ſpeciali paterno amore et favore, quem habemus et gerimus erga dictas noſtras filias; necnon in contentatione et ſatisfactione portionum ſuarum naturalium, quæ ſibi, aut per deceſſum dictæ quondam earum matris, aut per deceſſum noſtrum quovis modo incumbere ſeu pertinere poterint; ac pro diverſis aliis rationalibus cauſis et conſiderationibus nos moventibus, prout in dictis literis obligatoriis, de dato die præſentium, latius continetur: Noveritis igitur nos, pro obſervatione et per impletione illius partis dictarum literarum obligatoriarum penes præſentis infeofamenti confectionem, necnon pro cauſis prædictis, dediſſe, conceſſiſſe, et hac præſenti carta noſtra confirmaſſe, necnon tenore præſentium, dare, concedere, et hac præſenti carta noſtra confirmare, præfatis noſtris filiabus, Dominis M. A. et E. A. hæredibus earum et aſſignatis quibuſcunque hæreditarie, inter eas æqualiter dividendum; et ſi aliquam earum innuptam in fata decedere contigerit, duabus earum aliis eam ſurviventibus, hæredibus ſuis et aſſignatis, ſimiliter inter eas æqualiter dividendum; et ſi aliquam earum duarum innuptam in fata decedere contigerit, nobis et hæredibus noſtris maſculis in comitatu B. ſuccedentibus pro parte ejus ſic innuptæ decedentis iterum revertendum, totum et integrum unum annuum redditum trium mille mercarum uſualis monetæ regni Scotiæ, annuatim levandum et percipiendum ad duos anni terminos conſuetos feſta, *viz.* Pentecoſtes et Sancti Martini in hyeme per æquales portiones, de totis et integris terris noſtris de ———, cum molendino, terris molendinariis, multuris, piſcationibus, et ſingulis ſuis pertinentiis, terris de ——— (*hic inſerre reliquas terras, et deinceps generalem clauſulam ſub hac forma*) cum totis et integris partibus, pendiculis, et pertinentiis, omnium et ſingularum præfatarum terrarum aliorumque ſupraſcriptorum, cum pertinentiis, ſeu aliqua earundem parte,

jacentibus infra vicecomitatus de —— et —— reſpective: Sub hac tamen lege et conditione, et non aliàs aliter neque alio modo, quod ſcilicet non obſtante hac noſtra infeodatione, licitum erit nobis, dicto J. C. de B. in vita noſtra, et poſt deceſſum noſtrum, hæredibus noſtris maſculis et ſucceſſoribus quibuſcunque, modo quo ſubtus diviſo, totum et integrum dictum annuum redditum trium mille mercarum uſualis monetæ regni Scotiæ præſcripti, ut præfertur, annuatim levandum et percipiendum ad duos anni terminos conſuetos feſta, *viz.* Pentecoſtes et Sancti Martini in hyeme, per æquales portiones, a præfatis Dominis M. A. et E. A. noſtris filiabus, prædictis hæredibus ſuis et aſſignatis præſcriptis, aut in toto aut in parte, redimere et relaxare, per ſolutionem unicuique earum quocunque tempore vitæ noſtræ, excludendo per præſentes hæredes et ſucceſſores noſtros quoſcunque, unius angeli aurei, vulgo lie angel, vel ſummæ ſex librarum, tredecim ſolidorum, et quatuor denariorum monetæ prædictæ, tanquam prætii ejuſdem, vel per ſolutionem ipſis æqualiter inter eas poſt deceſſum noſtrum, per hæredes noſtros maſculos et ſucceſſores prædictos, ſummæ triginta mille mercarum monetæ præſcriptæ, cum præteritis ſuis annuis redditibus pro tempore debendis, uno die inter ſolis ortum et occaſum ejuſdem, infra eccleſiam parochialem de Edinburgo, vocatam St. Giles, aut caſu earum abſentiæ, ſeu recuſationis, per conſignationem dictarum ſummarum reſpectivarum, in manibus ſufficientis et reſponſalis viri in terris et annuis redditibus infra dictam parochiam, ſuper præmonitione octo dierum quovis tempore vitæ noſtræ, dictis noſtris filiabus, perſonaliter, vel apud dictam eccleſiam, abſque citatione earum tutorum aut curatorum, vel poſt deceſſum noſtrum ſuper præmonitione quadraginta dierum terminum feſti Pentecoſtes ſeu Sancti Martini immediate præcedentium, per hæredes noſtros et ſucceſſores prædictos, dictis noſtris filiabus ſuiſque præſcriptis perſonaliter, aut apud earum habitationis loca et eccleſiam earum parochialem, pro tempore, die Dominico ante meridiem, tempore divini ſervitii, in preſentia notarii et teſtium, ut congruint rite et legitime facta; quibuſquidem ſummis reſpective, ſuperius ſpecificatis, cum elapſis ſeu præteritis ſuis annuis redditibus pro tempore debendis, ſic ut premittitur rite et legitime perſolutis ſeu conſignatis exiſten. tunc, et in iis caſibus, ſeu eorum aliquo, hæc preſens noſtra infeodatio antedicti annui redditus nullius erit inde roboris, valoris, et efficaciæ, unacum dictis literis obligatoriis et ſaſinæ inſtrumento de ſuper ſequendis, ſimili modo, ac ſi eædem nunquam datæ, factæ, ſeu conceſſæ fuiſſent; ſuſpendendo nihilominus omnimodam ſolutionem dicti annui redditus trium mille mercarum, omnemque vim, robur, et efficaciam preſentis hujus cartæ noſtræ ac ſaſinæ inſtrumenti de ſuper ſequendi, unacum dictis literis obligatoriis, et quicquid de ſuper ſequi poterit, durante toto tempore vitæ noſtræ dicti Jacobi Comitis B. et diutius de hinc ſemper, et quouſque dicta Domina M. A. et E. A. noſtræ filiæ exceſſerint ætatem ſuam duodecim annorum completam, durantibus quibus ſpaciis reſpective, dictæ noſtræ filiæ nullum habebunt jus nec titulum ad levandum et percipiendum dictum annuum redditum, nonobſtante hac noſtra infeodatione ejuſdem, quovis modo per præſentes, nos vero nihilominus noſtrique prædicti dictas Dominas M. A. et E. A. noſtras filias in omnibus ſtatibus ſuis reſpondentibus ut congruit, ſuſtinendo, aut unicumque optione earum ſummam quinque centum librarum

rum monetæ prædictæ, ac pro earum ſuſtentatione, durantibus ſpaciis prædictis, abſque fraude et dolo, perſolvendam; ac cum ſpeciali proviſione et conditione, quod ſi contigerit nos dictum J. Comitem B. in vita noſtra, præfatas Dominas M. A. et E. A. noſtras filias, vel aliquam earum, maritis ſeu marito providere, et eas vel eam ad hunc effectum competenter dotare, tunc, et in iis caſibus, ſeu eorum aliquo, et immediate poſtea, hæc noſtra infeodatio antedicti annui redditus, una cum ſaſinæ inſtrumento de ſuper ſequendo, et dictis literis obligatoriis, quoſque extendi poterint, ad filiam noſtram in vita noſtra marito junctam et per nos dotatam, nullius erit inde roboris, valoris, et efficaciæ, ſimili modo, ac ſi eædem nunquam datæ, factæ, aut conceſſæ fuiſſent, juxta formam et tenorem dictarum literarum obligatoriarum et non alias aliter, neque alio modo, tenendum et habendum totum et integrum antedictum annuum redditum trium mille mercarum monetæ præſcriptæ, ut præfertur, annuatim levandum et percipiendum præfatis Dominis M. A. et E. A. noſtris filiabus, hæredibus earum et aſſignatis prædictis, de nobis, hæredibus et ſucceſſoribus noſtris quibuſcunque, in feodo, hæreditate, ac libera alba firma, in perpetuum, cum omnibus et ſingulis ſuis libertatibus, commoditatibus, proficuis, aſiamentis, et juſtis ſuis pertinentiis quibuſcunque, ad præfatum annuum redditum ſpectantibus, ſeu juſte ſpectare valentibus, quomodo libet in futurum, libere, quiete, plenarie, integre, honorifice, bene et in pace, abſque aliqua revocatione, contradictione, ſeu obſtaculo aliquali. Reddendo inde annuatim prefatæ Dominæ M. A. et E. A. noſtræ filiæ, hæredes ſui et aſſignati præſcripti, nobis, hæredibus et ſucceſſoribus noſtris, tres denarios uſualis monetæ regni Scotiæ prædicti, ſuper ſolo dictarum terrarum, ſeu alicujus partis earundem, ad diem feſti Pentecoſtes, nomine albæ firmæ ſi petantur tantum, pro omni alio onere, exactione, queſtione, demando, ſeu ſervitio ſeculari, quæ de prædicto annuo redditu per quoſcunque juſte exigi poterint, quomodo libet vel requiri; et nos vero dictus J. Comes B. hæredes noſtri et ſucceſſores quicunque, totum et integrum antedictum annuum redditum trium mille mercarum monetæ præſcriptæ, ut præfertur, annuatim levandum et percipiendum præfatis Dominis M. A. et E. A. noſtris filiabus, hæredibus, et aſſignatis præſcriptis, æqualiter inter eas dividendum, in omnibus et per omnia forma, pariter et effectu, ut premiſſum eſt, contra omnes mortales warrantizabimus, acquittabimus, et in perpetuum defendemus, ſub reverſione tamen, aliiſque proviſionibus ſuperius ſpecificatis, et non alias aliter, neque alio modo, juxta formam et tenorem dictarum literarum obligatoriarum. Inſuper dilectis noſtris G. B. de A. ballivo dominii noſtri de G. et veſtrum cuilibet, conjunctim et diviſim, ballivis noſtris in hac parte ſpecialiter conſtitutis, ſalutem, vobis precipimus et firmiter mandamus, quatenus viſis præſentibus, indilate ſtatum ſaſinam hæreditariam, pariter et poſſeſſionem, realem, actualem et corporalem, totius et integri annui redditus trium mille mercarum monetæ præſcriptæ, ut præfertur, annuatim levandi et percipiendi de totis et integris prædictis noſtris terris de M. cum molendino, terris molendinariis, multuris, piſcationibus, et ſingulis ſuis pertinentiis, (*hic etiam inſerre cætéras terras, et alia ut in præcepto ſaſinæ, et poſtea clauſulam generalem ſub hac forma*) cum omnibus et ſingulis ſuis partibus, pendiculis et pertinentiis, omnium et ſingularum præfatarum terrarum, aliorumque ſu-

pra ſcriptarum, ut ſupra jacentium, prefatis Dominis M. A. et E. A. noſtris filiabus, inter eas æqualiter dividendi, vel earum certis actornatis, ſeu actornato, latoribus, ſeu latori præſentium, per terræ et lapidis fundi alicujus partis dictarum terrarum, et lie clap molendini, necnon denarii, traditionem et deliberationem ut moris eſt, tradatis et deliberetis, ſeu aliquis veſtrum, tradat et deliberet, ſub reverſione tamen reſtrictionibus et conditionibus ſupra ſpecificatis, et non alias aliter, neque alio modo; et hoc nullo modo omittatis ad quod faciendum, vobis et veſtrum cuilibet, conjunctim et diviſim, ballivis noſtris in hac parte, antedictis, noſtram plenariam et irrevocabilem, tenore præſentium, committimus poteſtatem. In cujus rei teſtimonium, præſenti huic cartæ noſtræ præceptoque ſaſinæ ſuprascriptæ, manu noſtra ſubſcriptæ, manuque H. W. filii J. W. ſcribæ ſcriptæ, ſigillum noſtrum proprium eſt appenſum, apud H. ſeptimo die menſis Auguſti, anno 1628, coram his teſtibus Magiſtro Jacobo Reid advocato, Alexandro Stirling ſervitore nobilis et potentis Comitis Joannis Comitis Marriæ noſtri patris, Jacobo Roſe ſervitore Domini Drum, et dictis Joanne et Henrico Williamſons. (*This charter was ſubſcribed by my Lord and the four witneſſes inſert; and one Mr. Andrew, or Mr. Alexander Baird, alſo as witneſſes, but not inſert.*)

Nota, The perſonal reverſion to my Lord, for redemption at any time in his lifetime, upon payment or conſignation of an angel, or ten merks, as the value, was afterwards renounced by his Lordſhip, and the renunciation regiſtered, which, with the charter, I did ſee; and becauſe it is a perſonal reverſion, and from the benefit whereof the heirs are excluded, and by them only redeemable, upon payment or conſignation of 30,000 merks, I judge it neceſſary and proper, becauſe many ſuch caſes may occur, to preſerve the father's paternal authority over children, and to make them dutiful children, depending upon their father, and not diſpoſe of themſelves in marriage without his conſent, to ſet down the ſtyle.

RENUNCIATION *and* DISCHARGE *by a Father to his Daughters, of a perſonal Reverſion and Faculty to redeem an Annualrent of* 3000 *Merks a-Year, provided by him to them in Portion, by Payment or Conſignation of an Angel of Gold, or ten Merks, as the Value thereof, at any Time in his own Lifetime, and redeemable afterwards by his Heirs, only upon Payment or Conſignation of* 30,000 *Merks, with the Annualrents reſting for the Time.*

BE it known to all men, by theſe preſent letters, us James Earl of B. Lord A. heritable proprietor of the lands and others after ſpecified, forth of which the annualrent after mentioned is appointed to be uplifted and taken yearly, and at the terms after expreſſed, and in whoſe favours the perſonal reverſion and faculty under written, for redemption thereof, at any time in our lifetime, by payment or conſignation of an angel of gold, or ten merks, as the value thereof, is conceived in manner after rehearſed: Foraſmuchas we, by our heritable bond, of the date at Holyrood-houſe, the 7th day of Auguſt 1628 years, for the cauſe, and upon the ſpecial conſiderations therein mentioned, did provide

Ladies

Ladies M. A. and E. A. our lawful daughters, procreate betwixt us and the deceaſed Lady M. D. Counteſs of B. our deceaſed ſpouſe, to the ſum of 30,000 merks uſual money of this realm, according to the tripartite diviſion following; and for ſecurity thereof, bound and obliged us, our heirs and ſucceſſors, duly, lawfully and validly, to have infeft and ſeiſed them, their heirs and aſſignees whatſoever, heritably, to be divided equally amongſt them; and if any one of them ſhould happen to deceaſe unmarried, the other two of our ſaid daughters ſurviving, their heirs and aſſignees, likeways to be divided equally betwixt them; and in caſe any of the ſaid two ſhould happen, in the courſe of providence, to deceaſe unmarried, that part belonging to that one deceaſing, thereafter to revert to us, and our heirs-male ſucceeding to us in the earldom of B. in all and haill an yearly annualrent of 3000 merks uſual money foreſaid yearly, to be uplifted and taken at two terms in the year, *viz.* Whitſunday and Martinmas in winter, by equal portions, forth of all and haill our lands of ———, with the mill, mill-lands, multures, fiſhings, and univerſal pertinents thereof; the lands of ——, *(here the other lands, mills, fiſhings,* &c. *were inſert, and then the general clauſe following)* with all and ſundry parts, pendicles and pertinents of all and ſundry the lands and others above written, with the pertinents, or forth of any part thereof, lying within the ſheriffdoms of —— and —— *reſpectivè*, with and under this law and condition, notwithſtanding, and no otherways, in any other terms, or any other way, that, notwithſtanding of our ſaid right, and infeftment to follow thereupon, it ſhould be lawful to us, in our lifetime, and after our deceaſe, to our heirs-male and ſucceſſors whatſoever, in manner after divided, to redeem and out-quit, in haill or in part, the ſaid yearly annualrent of 3000 merks money foreſaid, yearly, upliftable at the terms, and by equal portions, as ſaid is, forth of the lands and others above ſpecified, from our ſaid daughters, and their ſaid heirs and aſſignees, by our payment to each of them, at any time in our lifetime, excluding thereby our heirs and ſucceſſors whatſoever, of an angel of gold, or the ſum of ſix pounds thirteen ſhillings four pennies money above written, as the price thereof, or by payment to them, equally betwixt them, after our deceaſe, by our heirs-male and ſucceſſors aforeſaid, of the ſaid ſum of 30,000 merks money above written, with the bygone annualrents thereof due for the time, upon a day, betwixt the ſun-riſing and down-paſſing thereof, within the pariſh-church of Edinburgh called St. Giles; or in caſe of their abſence or refuſal, by conſignation of the ſaid reſpective ſums in the hands of a ſufficient and reſponſible perſon, in lands or annualrents, within the ſaid pariſh, upon eight days premonition at any time in our lifetime, to our ſaid daughters, perſonally, or at the ſaid church, without citing of their tutors or curators, or, after our deceaſe, upon forty days premonition immediately preceding the feaſt of Whitſunday or Martinmas, to be duly and lawfully made by our ſaid heirs and ſucceſſors, to our ſaid daughters and their foreſaids, perſonally, or at their dwelling-places, and their pariſh-church for the time, upon the Lord's day in the forenoon, in time of divine ſervice, in preſence of a notary and witneſſes as effeirs; and which ſums *reſpectivè* above ſpecified, with the bygone annualrents reſting for the time, being ſo duly

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and lawfully paid or conſigned, then, and in theſe caſes, or either of them, our ſaid infeftment of the ſaid annualrent from thenceforth, to be of no force, ſtrength nor effect thereafter, together with the ſaid bond, and inſtrument of ſeiſin to follow thereupon, ſicklike as if the ſame had never been made, given nor granted; ſuſpending nevertheleſs, all payment of the ſaid annualrent of 3000 merks, and all force, vigour and ſtrength of the ſaid bond, charter and ſeiſin to follow thereupon, during all the days of our ſaid lifetime, and thereafter ſtill, until our ſaid daughters attain to their full age of twelve years complete; during which ſpaces, our ſaid daughters had no right nor title to uplift the ſaid annualrent, notwithſtanding of the ſaid right and infeftment, but we and our foreſaids obliged ſufficiently to ſuſtain them in all things ſuitable to their quality, or, in the option of each of them, to pay them five hundred pounds money foreſaid, for their ſaid maintenance and ſubſiſtence yearly during the ſaid ſpace. And farther, it is thereby provided, that if we, in our own lifetime, ſhould happen to betroth our ſaid daughters, or any one of them, to huſbands, or an huſband, or to tocher them, or any of them, in order thereto, then, and in theſe caſes, or either of them, the ſaid bond, and infeftment to follow thereupon, ſhould from thenceforth be of no force, ſtrength or effect as to the daughters or daughter ſo tochered and married by us in our ſaid lifetime, and as if the ſame had never been made, given nor granted; to be holden the ſaid annualrent of us, our heirs and ſucceſſors whatſoever, in fee, heritage and free blench-farm for ever, for payment of three pennies money foreſaid, at Whitſunday yearly, if required, in manner ſpecified in the ſaid heritable bond, which contains divers other clauſes conceived in favours of our ſaid daughters and their foreſaids; and for implement whereof, in that part of the ſame, whereby we ſtood obliged to infeft our ſaid daughters, and their foreſaids in the ſaid annualrent of 3000 merks money foreſaid, yearly, to be uplifted and taken at the terms, and by equal portions, as ſaid is, forth of the lands and others above mentioned, or any part thereof, we granted to them a charter relative thereto, and of the date thereof, containing precept of ſeiſin for infefting them therein, and to be holden in manner above expreſſed; and conform whereunto, our ſaid daughters were, upon the —— day of ——— ——— years, lawfully infeft in the ſaid annualrent, and their ſeiſin duly regiſtered, conform to the act of parliament, as the ſaid heritable bond, charter and ſeiſin, in themſelves more fully proport. And ſeeing our ſaid daughters are come to years fit for marriage, and moſt hopeful children, and have attained to a great perfection in their education, and other accompliſhments proper for their ſex, and ſuitable to their birth and quality; and now, after mature deliberation, being unwilling to keep them under ſuch bonds and ties, as that of the ſaid perſonal reverſion and faculty reſerved to ourſelf, for redemption of the ſaid annualrent of 3000 merks from them and their foreſaids, at any time in our own lifetime, by payment or conſignation of the ſaid angel of gold, or ten merks as the value thereof, to and for them in manner above rehearſed, leſt the ſame may prove a diſcouragement for perſons of their own quality to make ſuit to, or enter in wedlock with them; and having entire confidence in our ſaid daughters, and not in the leaſt doubting, but

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when the ſaid perſonal reverſion, power and faculty is removed and taken off, and thereby their freedom in marriage enlarged, yet, by their pious education and virtues, in which they have been brought up, they will not deviate or ſwerve from that due deference they owe to us their kindly father, in beſtowing themſelves in marriage without our conſent, or below their own quality, and without conſent of their noble friends and relations, even when we by death may be diſſolved: Therefore, wit ye us to have overgiven, quit-claimed, and freely and *ſimpliciter* diſcharged, and for ever renounced, likeas we, by theſe preſents, overgive, quit-claim, and freely and *ſimpliciter* diſcharge, and for ever renounce, to and in favours of our ſaid daughters and their foreſaids, the ſaid perſonal reverſion, power and faculty reſerved by us to ourſelf, by the foreſaid heritable bond, charter and ſeiſin following thereupon, for redemption, looſing and out-quitting from them, at any time in our lifetime, of the ſaid annualrent of 3000 merks money foreſaid, yearly, to be uplifted and taken at the terms, and by equal portions, in manner foreſaid, forth of the lands, mills, mill-lands, and others above expreſſed, or any part thereof, by payment to each of the ſaid daughters, or their foreſaids, of the ſaid angel of gold, or ten merks money above written, as the value thereof; or in caſe of abſence or refuſal, by conſignation of the ſame, in manner, in the hands, and upon the premonition above expreſſed; and by theſe preſents, wills, appoints and declares the foreſaid perſonal reverſion, power and faculty of redemption aforeſaid, by virtue thereof, and all declarators that may be competent thereupon, to be now, and in all time coming, null, and of none avail, force, ſtrength or effect, with all that has followed, or may follow on the ſame, ſicklike, in the ſame manner, and as fully, freely, and abſolutely in all reſpects, and to all intents and purpoſes, as if the ſaid perſonal reverſion, and power and faculty of redemption, by virtue thereof, had never been inſert, ſet down and engroſſed in the ſaid heritable bond, charter and ſeiſin following thereupon, or thereby in the leaſt reſerved to us, and introduced and conceived in our favours; without prejudice always to our ſaid heirs and ſucceſſors, after our deceaſe, to redeem, looſe and out-quit the ſaid annualrent of 3000 merks from our ſaid daughters and their foreſaids, by payment to them of the ſaid ſum of 30,000 merks money above written, according to the diviſion foreſaid, and annualrents thereof, reſting for the time, in manner, and upon the other premonition above ſpecified; or in caſe of abſence or refuſal thereof, by conſignation of the ſame, in manner above expreſſed. And we bind and oblige us, our heirs and ſucceſſors, to warrant this our preſent renunciation and diſcharge, to be good, valid and ſufficient to our ſaid daughters and their foreſaids, in all, and by all things, as is above rehearſed, at all hands, and againſt all deadly; conſenting theſe preſents be regiſtered in the books of council and ſeſſion appointed for regiſtration of ſeiſins, reverſions, renunciations, and the like, or others competent, therein to remain for conſervation; and conſtitutes ——— our procurators, *&c.* In witneſs whereof, we have ſubſcribed theſe preſents, (written by ———,) with our hand, at —— the —— day of ——— —— years, before theſe witneſſes,

Nota,

and lawfully paid or conſigned, then, and in theſe caſes, or either of them, our ſaid infeftment of the ſaid annualrent from thenceforth, to be of no force, ſtrength nor effect thereafter, together with the ſaid bond, and inſtrument of ſeiſin to follow thereupon, ſicklike as if the ſame had never been made, given nor granted; ſuſpending nevertheleſs, all payment of the ſaid annualrent of 3000 merks, and all force, vigour and ſtrength of the ſaid bond, charter and ſeiſin to follow thereupon, during all the days of our ſaid lifetime, and thereafter ſtill, until our ſaid daughters attain to their full age of twelve years complete; during which ſpaces, our ſaid daughters had no right nor title to uplift the ſaid annualrent, notwithſtanding of the ſaid right and infeftment, but we and our foreſaids obliged ſufficiently to ſuſtain them in all things ſuitable to their quality, or, in the option of each of them, to pay them five hundred pounds money foreſaid, for their ſaid maintenance and ſubſiſtence yearly during the ſaid ſpace. And farther, it is thereby provided, that if we, in our own lifetime, ſhould happen to betroth our ſaid daughters, or any one of them, to huſbands, or an huſband, or to tocher them, or any of them, in order thereto, then, and in theſe caſes, or either of them, the ſaid bond, and infeftment to follow thereupon, ſhould from thenceforth be of no force, ſtrength or effect as to the daughters or daughter ſo tochered and married by us in our ſaid lifetime, and as if the ſame had never been made, given nor granted; to be holden the ſaid annualrent of us, our heirs and ſucceſſors whatſoever, in fee, heritage and free blench-farm for ever, for payment of three pennies money foreſaid, at Whitſunday yearly, if required, in manner ſpecified in the ſaid heritable bond, which contains divers other clauſes conceived in favours of our ſaid daughters and their foreſaids; and for implement whereof, in that part of the ſame, whereby we ſtood obliged to infeft our ſaid daughters, and their foreſaids in the ſaid annualrent of 3000 merks money foreſaid, yearly, to be uplifted and taken at the terms, and by equal portions, as ſaid is, forth of the lands and others above mentioned, or any part thereof, we granted to them a charter relative thereto, and of the date thereof, containing precept of ſeiſin for infefting them therein, and to be holden in manner above expreſſed; and conform whereunto, our ſaid daughters were, upon the —— day of —— —— years, lawfully infeft in the ſaid annualrent, and their ſeiſin duly regiſtered, conform to the act of parliament, as the ſaid heritable bond, charter and ſeiſin, in themſelves more fully proport. And ſeeing our ſaid daughters are come to years fit for marriage, and moſt hopeful children, and have attained to a great perfection in their education, and other accompliſhments proper for their ſex, and ſuitable to their birth and quality; and now, after mature deliberation, being unwilling to keep them under ſuch bonds and ties, as that of the ſaid perſonal reverſion and faculty reſerved to ourſelf, for redemption of the ſaid annualrent of 3000 merks from them and their foreſaids, at any time in our own lifetime, by payment or conſignation of the ſaid angel of gold, or ten merks as the value thereof, to and for them in manner above rehearſed, leſt the ſame may prove a diſcouragement for perſons of their own quality to make ſuit to, or enter in wedlock with them; and having entire confidence in our ſaid daughters, and not in the leaſt doubting, but

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when the ſaid perſonal reverſion, power and faculty is removed and taken off, and thereby their freedom in marriage enlarged, yet, by their pious education and virtues, in which they have been brought up, they will not deviate or ſwerve from that due deference they owe to us their kindly father, in beſtowing themſelves in marriage without our conſent, or below their own quality, and without conſent of their noble friends and relations, even when we by death may be diſſolved: Therefore, wit ye us to have overgiven, quit-claimed, and freely and *ſimpliciter* diſcharged, and for ever renounced, likeas we, by theſe preſents, overgive, quit-claim, and freely and *ſimpliciter* diſcharge, and for ever renounce, to and in favours of our ſaid daughters and their foreſaids, the ſaid perſonal reverſion, power and faculty reſerved by us to ourſelf, by the foreſaid heritable bond, charter and ſeiſin following thereupon, for redemption, looſing and out-quitting from them, at any time in our lifetime, of the ſaid annualrent of 3000 merks money foreſaid, yearly, to be uplifted and taken at the terms, and by equal portions, in manner foreſaid, forth of the lands, mills, mill-lands, and others above expreſſed, or any part thereof, by payment to each of the ſaid daughters, or their foreſaids, of the ſaid angel of gold, or ten merks money above written, as the value thereof; or in caſe of abſence or refuſal, by conſignation of the ſame, in manner, in the hands, and upon the premonition above expreſſed; and by theſe preſents, wills, appoints and declares the foreſaid perſonal reverſion, power and faculty of redemption aforeſaid, by virtue thereof, and all declarators that may be competent thereupon, to be now, and in all time coming, null, and of none avail, force, ſtrength or effect, with all that has followed, or may follow on the ſame, ſick-like, in the ſame manner, and as fully, freely, and abſolutely in all reſpects, and to all intents and purpoſes, as if the ſaid perſonal reverſion, and power and faculty of redemption, by virtue thereof, had never been inſert, ſet down and engroſſed in the ſaid heritable bond, charter and ſeiſin following thereupon, or thereby in the leaſt reſerved to us, and introduced and conceived in our favours; without prejudice always to our ſaid heirs and ſucceſſors, after our deceaſe, to redeem, looſe and out-quit the ſaid annualrent of 3000 merks from our ſaid daughters and their foreſaids, by payment to them of the ſaid ſum of 30,000 merks money above written, according to the diviſion foreſaid, and annualrents thereof, reſting for the time, in manner, and upon the other premonition above ſpecified; or in caſe of abſence or refuſal thereof, by conſignation of the ſame, in manner above expreſſed. And we bind and oblige us, our heirs and ſucceſſors, to warrant this our preſent renunciation and diſcharge, to be good, valid and ſufficient to our ſaid daughters and their foreſaids, in all, and by all things, as is above rehearſed, at all hands, and againſt all deadly; conſenting theſe preſents be regiſtered in the books of council and ſeſſion appointed for regiſtration of ſeiſins, reverſions, renunciations, and the like, or others competent, therein to remain for conſervation; and conſtitutes ——— our procurators, *&c.* In witneſs whereof, we have ſubſcribed theſe preſents, (written by ———,) with our hand, at ——— the —— day of ——— —— years, before theſe witneſſes,

Nota,

Nota, I only read the principal, and, ſome time after, calling it to mind, ſet it down, ſo far as I remember, and is not in the leaſt abridged by me, whatever luſtre may be given, beyond the original, being a debt upon all who tranſcribe or tranſlate any work of another perſon.

I was once reſolved to have ſet down a draught of the bond, but afterwards judged it not neceſſary, there being bonds of proviſon amongſt the other ſtyles of ſecurities, much tryſting with the ſame, if not altogether in the ſubſtitution; and beſides, the narrative of the former renunciation is ſo full, that, if the like occur, it may be a ſufficient pattern, with ſuch alterations as the granter thinks convenient, and the matter requires.

LETTER *of Bailliary by a Nobleman and Lord of Regality, to a Gentleman within the Bounds of the ſaid Regality.*

BE it known to all men, by theſe preſent letters, us J. M. of A. *&c.* Lord of the regality of ——, and having full and ample power and commiſſion to nominate and appoint baillies under us within the ſaid regality, and haill bounds thereof, and for whom we are anſwerable, conform to the charter granted to us thereupon under the great ſeal, of the date the —— day of —— —— years, ratified in parliament the —— day of —— —— years: Foraſmuchas (6) the abilities and qualifications of J. H. of C. for exercing the office and truſt after ſpecified, is ſufficiently known to us, and that we have entire confidence in him, and that he will diſcharge the ſame faithfully, carefully and diligently, and without partiality; and being aſſured of his affection to the government, and has qualified himſelf by law, and made faith *de fideli adminiſtratione*: Therefore, wit ye us to have nominated, appointed, made, conſtituted and ordained, likeas we, by theſe preſents, nominate, appoint, make, conſtitute and ordain the ſaid J. H. our only lawful, undoubted and ſole (7) baillie of the regality of A. (8) and within the haill bounds and limits thereof under us, and to the effect after ſpecified; with full and ample power, warrant and commiſſion to him, as our ſaid baillie, to ſit, affix, affirm, hold and continue courts of regality, with the privilege of chapel and chancellary within the head-burgh of the ſaid regality, or any other place or places within the ſaid regality he ſhall judge convenient (9), for the better and more ſpeedy adminiſtration of juſtice, and accommodation and eaſe of the lieges reſiding within the bounds of the ſaid regality, and others that may repair thither and be concerned, and that as oft as need beis, and as matters require, and to judge and determine in all matters civil and criminal that fall out and come before him, proper to be judged and cognoſced by a baillie of regality, by the laws, acts of parliament, and conſuetude of this kingdom; and for that effect, to emit and iſſue forth precepts and ſummons, cauſe cite witneſſes to all aſſizes, and to pronounce and give forth decreets, ſentences and dooms therein, and cauſe the ſame be execute according to law, tranſgreſſors to puniſh, delinquents and abſents to fine and amerciate, eſcheats, fines and amerciaments of court to uplift and exact, and to emit brieves for ſerving perſons heirs to their predeceſſors in lands and others belonging to them, lying within the ſaid regality, and

cauſe

cauſe the ſame be duly executed and proclaimed, and to cauſe ſummon inqueſts to paſs upon the ſaid ſervices, ſummon and receive habile witneſſes, for proving and inſtructing the propinquity of the blood of the apparent heir to the perſon deceaſed, and to adminiſtrate juſtice therein, until the final end and deciſion thereof (10), and to repledge from the Juſtice-general and Lords of juſticiary, ſheriffs, and other inferior courts, all perſons living and reſiding within the ſaid regality and bounds thereof, who may be purſued criminally before any of the ſaid other judges, and to find caution to adminiſtrate juſtice againſt thoſe repledged within the term of law (11), and to do every other thing in the premiſſes, as to all matters civil and criminal, that any other baillie of regality, and having power of chapel and chancellary, as ſaid is, has done, doth, or of the law may do at any time bygone or to come. And by the acceptation hereof, the ſaid J. H. as baillie foreſaid, is hereby obliged to be anſwerable and accountable to us for his good and faithful adminiſtration in the ſaid office, and for the ſaid eſcheats, and other emoluments of court, when required thereto; and this preſent commiſſion and letter of bailliary, is only to continue and endure during our pleaſure: Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, or others competent, therein to remain for conſervation; and conſtitutes ——— our procurators, *&c.* In witneſs whereof, we have ſubſcribed theſe preſents, (written by ———) with our hand, at ——— the —— day of ——— —— years before theſe witneſſes,

Nota, Some have inſert in the clauſe of regiſtration, "To be regiſtered in the regality "books;" which is wrong, unleſs there were two baillies of regality, and that they had two commiſſions, and then the one might be regiſtered by the interpoſition of the other baillie's decreet; and ſure if but one baillie, the Lord of regality himſelf could not ſit as judge, and interpoſe his decreet to his own commiſſion and deed; and therefore, it muſt either be regiſtered in the books of council and ſeſſion, or two baillies, as I have ſaid, or not regiſtered at all; but the Lord of the regality being preſent in court at the baillie's entry, the commiſſion may be produced, and, by my Lord's order, appointed to be read, and marked ſo in the book or records of court; and the clerk ſigning the minute thereof, (as well as that the baillie has qualified himſelf by law, and taken the oath *de fideli adminiſtratione*) is ſufficient.

Nota, The office of ſtewartry has the ſame privilege that a regality has; but, whether chapel or chancellary, the right thereof bears the ſame; and to ſet down the ſtyle, were tedious; and therefore, make the ſame with the diſtinction following, *viz* Whereas the former calls the granter "Lord of the regality," call this perſon "heritable ſtewart of the "ſtewartry of ———, and having power to ſubſtitute deputes under me in the ſaid office, "conform to the rights and infeftments granted to me and my predeceſſors thereupon;" (and then ſay) "Forasmuchas," (here take in from the figure (6) to the figure (7), and then ſay) "Stewart-depute of the ſtewartry of ———." And thereafter follow forth the whole ſtyle *uſque ad finem*; with this alteration, where ye find *baillie*, call this perſon *ſtewart-depute*, and where you find *regality*, call it *ſtewartry*; and ſo forth all alongſt, by a diſcrimination of the one office from the other.

Nota, Whether a Lord of regality grant a letter of bailliary, or an heritable ſtewart grant a deputation, yet ye may perceive, that neither of them give power to the baillie, or ſtewart-depute, to nominate and appoint clerks of court, fiſcals, officers or dempſters, albeit all ſubordinate courts muſt have ſuch, and cannot ſit without them; and the reaſon of their not giving that power and latitude to their baillies or deputes, is obvious; for, in effect, by not giving

giving thereof, is a reſervation of the ſame to themſelves, who grant particular commiſſions to clerks and fiſcals, as to their reſpective offices; but for officers and dempſters, being the minor offices, they only nominate them in court to be ſuch, and are recorded accordingly in the court records: So that clerk, fiſcal, officers and dempſters, have their dependence immediately upon the Lord of regality, or ſtewart of the ſtewartry, and not upon the baillie of regality, or ſtewart-depute; and by ſo doing, know how all the matters of court go.

DEPUTATION *by a Principal Sheriff to a Gentleman, as his Depute in the Office.*

BE it known to all men, by theſe preſent letters, us J. M. of A. principal ſheriff of the ſheriffdom of P. and having power and commiſſion, by our patent and commiſſion under his Majeſty's great ſeal, to ſubſtitute deputes under us in the ſaid office, and for whom we are anſwerable: Foraſmuchas *(here take in the former letter of gift from the figure of* (6) *to the figure of* (7), *only change the perſon; and then ſay)* one of our deputes within the ſaid ſheriffdom of P. and haill bounds thereof, excepting regalities and ſtewartries within the ſame, with full and ample power, warrant and commiſſion to the ſaid ——— as one of our ſaid deputes, to ſit, affix, affirm, hold and continue ſheriff-courts within the headburgh of the ſaid ſhire, or any other place or places within the ſame ſhire he ſhall judge convenient *(here take in the former gift from the figure* (9) uſque ad finem; *only, in place of the word* regality, *call it* ſheriffſhip, *for* baillie, ſheriff-depute, competent to a baillie of regality, *write* to a ſheriff. *And, upon the whole matter, make a diſtinction betwixt the one office and the other, and the one judge and the other; and be ſure in this deputation to a ſheriff-depute, leave out all in the former gift of the bailliary betwixt the figure of* (10) *and the figure* (11).

GIFT *and* MORTIFICATION *by* George *Viſcount of* Tarbat, *Lord* M'Cleod *and* Caſtlehaven, *&c. in favours of the Miniſter and Elders of the Pariſh of* Tarbat, *as Truſtees and ſide-commiſſaries of the Poor thereof, and others after ſpecified, and a full and ample Stile, and reſerves the Patronage to himſelf and Heirs.*

BE it known to all men by theſe preſent letters, us G. V. of T. L. M. and C. heritable proprietor of the lands and others after ſpecified, with the pertinents: Wit ye us, for the glory of God, Father, Son and Holy Ghoſt, and bleſſed Trinity, and undivided Unity, and in thankful acknowledgment of the great mercies, ſpiritual and temporal, beſtowed upon us, and from pure and perfect charity, for maintenance and ſuſtentation of the poor and indigent, for the ſervice and worſhip of God, our Creator, Redeemer and Sanctifier, to have ſold, annalzied, given, granted, diſponed, doted and mortified; likeas we, by theſe preſents,

ſents, ſell, diſpone, give, grant, annalzie, dote and mortify in the moſt ſure, firm, abſolute and entire manner eleemoſinary, to and in favours of the very reverend Mr. Andrew Roſs, now miniſter at Tarbat, and the preſent elders of the kirk of Tarbat, and their ſucceſſors in the ſaid miniſtry and elderſhip, in being for the time, as truſtees and ſide-commiſſaries for the uſe and behoof of the poor and others after named, perpetually, in all time coming, obſerving the rules, orders, conſtitutions and appointments after expreſſed, and no otherways, all and haill an annuity of thirty-ſix bolls of bear, ſufficient, clean, callar and well dighted, market met and merchant ware, and to be mete and meaſured with the meaſure of Linlithgow yearly, to be uplifted and taken betwixt Yule and Candlemas, forth of all and haill our quarter lands of Weſter Gainies, parts, pendicles and pertinents thereof, lying within the pariſh of Tarbat, and ſheriffdom of Roſs, and preſently poſſeſſed by ——, and formerly pertained to —— of ——, or forth of any part or portion thereof, and readieſt mails, farms, profits and duties of the ſame, to be kilned and dried on the ground of the ſaid lands, by the tenants and poſſeſſors thereof, and tranſported from thence by the ſaid tenants, in their own ſacks, and on their own horſes, to the mill of Tarbat and Tarrel, by equal halves, and there grinded in meal, and preferable to all other grindings, as outtucken, and without payment of any other dues, except what uſually paid to the ſervants by outſuckeners; and after grinding, to be tranſported by the ſaid tenants, to any part of the ſaid pariſh of Tarbat, to be appointed by the ſaid miniſter and elders; beginning the firſt year's payment of the ſaid annuity of the crop and year of God One thouſand ſix hundred four ſcore and ſix years inſtant, betwixt Yule and Candlemas next, and ſo forth yearly thereafter, betwixt Yule and Candlemas for ever; and alſo, all and haill the privilege and benefit of kilning and drying the ſaid bear on the ground of the ſaid lands, grinding the ſame at the ſaid mills as outſuckeners, and preferable to all other grindings, free of all multure and other dues, except what uſually paid to ſervants by outſuckeners, as ſaid is, and likeways with the privilege and benefit of having the ſame tranſported to and from the ſaid mills, in manner foreſaid, and all which ſervices to be performed by the ſaid tenants and poſſeſſors of the ſaid lands in all time coming, as a part of their ſervices as tenants and poſſeſſors of the ſaid lands, and without any payment or exaction from the ſaid poor, or the ſaid miniſter and elders on their accounts. And we bind and oblige us and our heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid Mr. Andrew Roſs miniſter, and his elders, and their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries foreſaid, for the uſe and behoof of the ſaid poor and others after mentioned, perpetually, in all time coming, obſerving the rules, orders, conſtitutions and appointments after expreſſed, and no otherways, in all and haill the foreſaid annuity of thirty-ſix bolls of bear, of the quality, growth, and with the meaſure foreſaid, yearly, to be uplifted betwixt —— and ——, as ſaid is, forth of the ſaid lands, with the pertinents, or any part or portion thereof, and readieſt mails, farms, profits and duties of the ſame; and alſo, in all and haill the foreſaid privilege and benefit of kilning and drying of the ſaid bear on the ground of the ſaid lands, grinding the ſame at the ſaid mills, and by equal halves, in meal,

as outſucken, and of having the ſame tranſported to and from the ſaid mills, in manner, and free of all paying of multures or other dues, excepting what uſually paid to the ſervants of the mill by outſuckeners, in manner above expreſſed, and that by double infeftments and manner of holdings, the one thereof to be holden of us, our heirs-male and of tailzie, contained in the rights and infeftments of our lands and eſtate of Tarbat, and our ſucceſſors, and the other of the ſaid infeftments, to be holden from us and our foreſaids, of the immediate lawful ſuperiors after named, *viz.* the ſaid annuity, kilning and drying, and tranſportation, of the right reverend father in God, —— biſhop of Roſs, and his ſucceſſors in that ſee, and the ſaid privilege of grinding in meal as outſuckeners, and free of payment of any multures or other duties, excepting as ſaid is, of our immediate lawful ſuperiors of the ſaid mills of Tarbat and Tarrel, and both the ſaid infeftments as well *de nobis* as *à nobis, in puram eleemoſinam, et in manum mortuam pro precibus et ſuffragiis*, of the poor after ſpecified, and others after mentioned, having the benefit of this mortification, in the moſt ſerious, pious, and devout manner that is poſſible, for his Majeſty's ſacred perſon, and his lineal and lawful ſucceſſors well-being, health, wealth, proſperity, and long and peaceable reign over his Majeſty's ancient kingdom, and all others his Majeſty's kingdoms, dominions and territories, whilſt ſun and moon endureth in the firmament, and crowning them with an everlaſting crown of glory thereafter; and likeways for the well-being of the ſaid right reverend father, and his ſucceſſors in the ſee, and for the true, holy and catholick church, and their patron, his lady, children and ſucceſſors, and all their benefactors, and that by reſignation or confirmation, in the option of the ſaid Mr. Andrew Roſs, miniſter and elders of the ſaid church of Tarbat, and their ſucceſſors in place and office, the acceptation of the one of the ſaid infeftments to be no ways prejudicial to the other; and for that effect, to make, grant, ſubſcribe and deliver to them, as truſtees and ſide-commiſſaries foreſaid, for the uſe and behoof of the ſaid poor and indigent, ſufficient diſpoſitions, containing procuratories of reſignation, charters containing precepts of ſeiſin, and other ſecurities requiſite for that effect, and neceſſary thereanent, with warrandice always in manner under written, and on our proper charges and expences. And for the better obtaining of the ſaid infeftment by reſignation, without prejudice of the other infeftment above written, we, by theſe preſents, make, conſtitute and ordain ———, and each one of them, conjunctly and ſeverally, our very lawful, undoubted and irrevocable procurators, actors, factors and ſpecial errand bearers, to the effect after ſpecified, giving and committing to them conjunctly and ſeverally, as ſaid is, our very free, plenary power, expreſs bidding, mandate and charge, for us, in our name, and upon our behalf, to compear before the ſaid reverend father, immediate lawful ſuperior of the ſaid lands, with the pertinents, and his ſucceſſors in that ſee, and alſo before our immediate lawful ſuperiors of the ſaid mills of Tarbat and Tarrel, or their commiſſioners, in their names, having their power to receive reſignations, and thereupon to grant new infeftments, any day or place lawful and convenient; and there, for us, in our name, and upon our behalf, with all due humility and condign reverence, as becomes purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender,

render, upgive, overgive and deliver, likeas we, by theſe preſents, reſign, ſurrender, upgive, overgive and deliver all and haill the foreſaid annuity of thirty-ſix bolls bear, of the ſufficiency, quality, growth and meaſure foreſaid yearly, to be uplifted and taken betwixt —— and ——, forth of all and haill our ſaid quarter lands of ——, parts, pendicles, and pertinents thereof, lying and poſſeſſed as ſaid is, or any part or portion thereof, or readieſt mails, farms, profits and duties of the ſame, to be kilned and dried, tranſported and grinded in meal, in manner above ſpecified, in the hands of the ſaid right reverend father in God, —— biſhop of Roſs, and his ſucceſſors in the ſaid ſee, immediate lawful ſuperiors of the ſaid lands, with the pertinents, forth of which the ſaid annuity is yearly upliftable, as ſaid is, and conſequently of the ſaid annuity, in favours and for new infeftments of the ſaid annuity, to be made and granted to the ſaid Mr. Andrew Roſs miniſter, and to the ſaid elders of the ſaid kirk of Tarbat, and their ſucceſſors in the ſaid miniſtry and elderſhip, perpetually, in all time coming, as truſtees and ſide-commiſſaries foreſaid, for the uſe and behoof of the ſaid poor, and others above and after ſpecified, and obſerving the rules, orders, conſtitutions and appointments above and after expreſſed, and no otherways, to be holden the ſaid annuity in manner above written; and ſicklike, to reſign, ſurrender, overgive and deliver, likeas we, by theſe preſents, reſign, ſurrender, overgive and deliver, all and haill the foreſaid privilege and benefit of kilning and drying the ſaid bear on the ground of the ſaid lands, grinding the ſame in meal at the ſaid mills of Tarbat and Tarrel, by equal halves, as ſaid is, and that free of all payment of multure, or other duties whatſoever, except as is above excepted; and likeways, with the privilege and benefit of having the ſame tranſported to and from the ſaid mills, by the ſaid tenants and poſſeſſors of the ſaid lands, as a part of their ſervice, and without any payment or exaction from the ſaid poor, or the ſaid miniſters and elders on their account, in manner above expreſſed, in the hands of our ſaid ſuperiors of the ſaid mills, or their commiſſioners above ſpecified, in favours and for new infeftment of the ſame, to be made and granted to the ſaid miniſter and elders, and their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries foreſaid, for the uſe, and to the behoof of the ſaid poor and others above and after mentioned, and obſerving the rules, orders, conſtitutions and appointments above and after expreſſed, perpetually in all time coming, and no otherways, to be holden alſo in manner above rehearſed, and all in ſuch due and competent form as accords; but with this expreſs condition, proviſion and declaration always, likeas, it is hereby expreſly provided and declared, and be it provided and declared, by the reſignation and infeftments to follow hereupon, and the miniſter and elders of the ſaid church of Tarbat, preſent and to come, as truſtees and ſide-commiſſaries foreſaid, are, and ſhall be bound, obliged and aſtricted to keep and obſerve the rules, orders, conſtitutions and appointments following, *viz. primo*, The ſaid Mr. Andrew Roſs miniſter, and elders of the ſaid kirk of Tarbat, and their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries foreſaid, for the uſe and behoof of the poor and indigent, and others after mentioned, are hereby authoriſed, appointed and ordained, to intromit with, uplift, aſk, crave and receive the ſaid number and quantity of thirty-ſix bolls bear, of the ſufficiency, quality and meaſure foreſaid,

foresaid, yearly and perpetually in all time coming, out of the said quarter lands of ——, with the pertinents, or any part or portion thereof, and readiest mails, farms, profits and duties of the same, and that betwixt Yule and Candlemas, and in case of not payment, to obtain decreet of poinding of the ground for the same, and accordingly to poind the ground therefor, and after payment, yearly to cause the tenants and possessors of the said lands for the time, kiln and dry the said bear sufficiently, and thereafter cause them transport the same in the said tenants their own sacks, and with their own horses, to the said mills of Tarbat and Tarrel, by equal halves, in manner foresaid, and then cause grind the same in meal, and being grinded, to cause the said tenants to transport the same in their own sacks, and upon their own horses, to any part within the said parish of Tarbat, the said trustees think fit, for the better keeping and distributing thereof, in manner, and to the persons after named. *Secondly*, We hereby appoint, destinate and ordain the said meal to be made of the said bear to be distributed yearly, for the help, sustenance and entertainment of the poor and indigent, living on the lands after specified, but with a preference still to decayed tenants, and their wives, when widows, that now are, or hereafter shall be upon the ground of our lands after mentioned, *viz.* The —— lands of ——, and that according to the divisions and proportions following, *to wit*, Twelve bolls and an half boll of the said bear, and the meal to be made thereof for the poor on the said lands in —— parish: *Item*, Ten bolls of the said bear, and the meal to be made thereof, for the poor in the said lands in —— and —— parish, and twelve bolls bear, and meal to be made thereof, for the poor of the said lands of ——, and the other six firlots bear, and meal to be made thereof, is hereby appointed and ordained for the use and pains of any person the said trustees and side-commissioners please nominate and appoint overseer yearly, for receiving, kilning, grinding and distributing of the said victual; but with this express exception, that during the life of Anna Viscountess of Tarbat, our dear and affectionate spouse, four of the ten bolls bear appointed for —— and ——, and meal to be made thereof, and six of the twelve bolls bear, and meal to be made thereof, appointed for ——, be given to, and distributed by the said minister and elders of Tarbat, amongst the poor of the parish of ——, with a preference to these in —— and —— in the first place, and the said —— in —— having the qualifications hereafter required, and testified by the minister of ——; and after our said lady's decease, the said victual to return to the poor of the former lands, to whom first mortified and destinated, as said is, in all time thereafter. *Thirdly*, We appoint and ordain, that no decayed tenant get at most, above two bolls meal made of the said bear, and that no other poor one get above one boll meal, till all be first served, at the rate and quantity foresaid, and the overplus, except that appointed to the person to be appointed for receiving, kilning, drying and distributing of the said victual, as said is, to be equally divided, according to the foresaid proportions, *viz.* twice as much to a decayed tenant, as any other person. *Fourthly*, We considering that it will be troublesome and expensive to the poor in —— and —— parish, to go to the parish of Tarbat, to receive their proportions aforesaid, therefore, we, for the good and ease of the said poor so remote, by these presents,

ſents, will and declare, that it ſhall be leiſome and lawful to us, and our foreſaids, without being guilty of ſacrilege, to anſwer the like ſpecies of victual to the poor in —— and ——, in lieu, place, and excambion of the victual of ——, and to apply the like quantity of the victual of ——, for the ſame uſe, in the option of us and our ſucceſſors; providing always, the reſpective miniſters and ſeſſion do ſend a teſtificate to the miniſter and ſeſſion of Tarbat, that the ſaid quantity ſo ſought in exchange, be firſt paid in to the poor of the reſpective pariſhes, and diſtributed to them, before we or our ſucceſſors can uſe or receive any of the ſaid victual, mortified out of the ——, and no otherways. And, *fifthly*, We hereby will, appoint and ordain, that the liſt of the poor to whom the ſaid victual is given yearly, and the quota by writ, be recorded in the reſpective ſeſſion books, in all time coming. *Sixthly*, We hereby will, appoint and ordain, that no perſons that are able to entertain themſelves, ſhall be capable to receive, or have the benefit of the ſaid mortification; or yet, if afterwards, ſuch as have the benefit come to means, whereby they may live, or to health, and get work, by which they have ſuſtenance otherways, then, and in either of theſe caſes, ſuch are from henceforth to amit and tine the benefit of the ſaid mortification, and to be devolved and conferred upon others more neceſſitous, and greater objects of charity, but ſtill with preference to decayed tenants, and their widows, living in the ſaid lands, in manner above expreſſed; and where ſome of the ſaid poor and indigent perſons deceaſe, and none others for the time to ſucceed in their places, then the part and portion of the perſon deceaſed, to be divided by the ſaid truſtees and ſide-commiſſioners, amongſt the reſt yearly, until another offer, and be preſented, who is capable of the ſaid benefit, by the rules and conſtitutions above and after mentioned. *Seventhly*, We will and appoint, that all the poor in health, keep church on the Sabbath-day, and other days wherein divine worſhip may be had; and if any of them be found wilful abſtractors from, or contemners of the ordinances of God, they ſhall be reprehended by the reſpective miniſters for the firſt fault, and the ſecond; and if they fall in the third, and that the ſame be proven againſt them, before their reſpective miniſters and ſeſſions, and by them certified to the truſtees and ſide-commiſſaries, they ſhall from thenceforth amit and tine the benefit of this mortification; and if at any time, any of the ſaid poor ſhall be convicted of blaſphemy, ſpeaking reproachfully of his Majeſty, or his government in church or ſtate, ſpeaking evil of the donor, or ſhall be found guilty of theft, or uncleanneſs by fornication or adultery, habit of ſwearing, lying, or drunkenneſs, that theſe, and any of the ſaid faults being tried, cognoſced and found proven by the ſaid miniſter and elders, preſent or to come, truſtees and ſide-commiſſaries aforeſaid, or by the other miniſters and elders within whoſe pariſhes they live, and teſtified by them to the ſaid truſtees and ſide-commiſſaries, they ſhall from thenceforth amit and tine the benefit of the ſaid mortification, and others choſen in their places, in ſuch manner as if the delinquents were naturally dead: And as to the right of patronage, and power of preſenting to the ſaid truſtees and ſide-commiſſaries, the number of the poor who ſhall have the benefit of the ſaid mortification, we hereby reſerve the ſame to ourſelves, and to our heirs-male and of tailzie in our lands and eſtate of Tarbat, and ſucceſſors

for

for ever in all time coming; and yet, notwithſtanding thereof, we, out of the ſame meaſure of piety and zeal, as that of the mortification, declare and will, that we or our ſucceſſors, will preſent none but ſuch as live upon the ſaid lands and eſtate particularly above mentioned, and ſuch as ſhall, from time to time, produce teſtificates to us from the reſpective miniſters and elders of the reſpective pariſhes within which they live, that they are indigent perſons, without any probable way of living, and perſons free of publick ſcandal, and of a ſober and Chriſtian life otherways. *Eighthly*, We hereby will and appoint, that when any of the ſaid poor dies, or be found guilty of any of the ſaid crimes or malverſes, ſhall amit and tine the benefit of the ſaid mortification, that immediately thereafter, the ſaid reſpective miniſters and elders intimate the ſame, by a teſtificate or extract of the ſentence to us, our heirs-male and of tailzie above ſpecified, and ſucceſſors, to the effect we may preſent others in their place, upon certificate of their indigence, and good, ſober and Chriſtian life and converſation in manner foreſaid. And further, we hereby will and appoint, that the preſent miniſter compear before the next adjacent —— ſheriff, commiſſaries, baillies of regality, or their deputes, and take the oath *de fideli*, to obſerve the rules, orders, conſtitutions and appointments foreſaid, ſo far as he is concerned, and wills and appoints him to adminiſtrate the like oath of faithful adminiſtration to the elders of his ſeſſion; and how oft there ſhall be a vacancy in the ſaid kirk of Tarbat, as to the miniſter, the ſucceſſor in the ſaid miniſtry, is, immediately upon his entry to the charge, to take the like oath *de fideli*, before any of the ſaid judges, or their deputes, and the miniſter, from time to time, to adminiſtrate the like oath to the ſucceeding elders. And for the better knowledge of affairs, we hereby will and appoint this our mortification to be read, previous to the oath; and albeit there be no frequent vacancies, yet for the more due obſervance of all things, we appoint the ſame to be read in kirk and ſeſſion once a year; and for the better preſervation hereof, appoints the ſame to be regiſtered in the books of council and ſeſſion, and three extracts thereof to be taken out, whereof one to be kept by us, and our ſucceſſors, as patrons, and the other to be kept by the miniſter of Tarbat for the time, and the third, with the ſeiſin and confirmation to follow thereupon, to be kept in a lockar of the poors box of the pariſh of Tarbat: And we hereby will and appoint, that our heirs and ſucceſſors, never quarrel or impugn this our mortification, but that they duly, as patrons, maintain the ſame, and adhere thereto, without any change, mutation, variation or alteration, farther than is hereby allowed, as they will anſwer to God, and as they will to be ſaved at the great day of judgment: And alſo wills and appoints the ſaid miniſter and elders of Tarbat, preſent and to come, to fulfil and obſerve the premiſſes, ſo far as they are concerned, without any innovation, change or alteration of the ſame, by any act, deed, or conſent of theirs, wittingly or willingly done by them, as they ſhall anſwer to God. And moreover, we hereby ſeriouſly recommend to the ſaid right reverend father in God, —— biſhop of Roſs, or his ſucceſſors in that ſee, ſuperiors of the ſaid quarter lands of ——, with the pertinents, to enter the ſaid truſtees and ſide-commiſſaries for the uſe and behoof of the ſaid poor and indigent, in the ſaid annuity, yearly to be uplifted forth thereof, as ſaid is, and that

by

by reſignation or confirmation, whenever deſired thereto by the ſaid truſtees and ſide-commiſſaries; reſerving always to the ſaid reverend father, and his foreſaids, the feu and teind duties, yearly due and payable to them forth of the ſaid lands and teinds thereof, which by the ſaid entry is to be noways prejudged, but ſtill yearly to be uplifted by, and paid to them forth of the reſidue of the rents, duties and teinds of the ſame lands, by us, our heirs and ſucceſſors, as heritors, and by our tenants thereof in all time coming. And, *laſtly*, We bind and oblige us and our foreſaids, to warrant, acquit and defend the ſaid quarter lands of Genies, forth of which the ſaid annuity is yearly upliftable, as ſaid is, and other privileges foreſaid, to the ſaid truſtees and ſide-commiſſaries above ſpecified, and their ſucceſſors in the ſaid miniſtry and elderſhip, for the uſe and behoof of the ſaid poor, from all incumbrances and grounds of eviction whatſoever, as well named as not named, bygone, preſent, as to come, from all facts and deeds, done or to be done by us, or any of us, and to make the writs and evidents forthcoming to them for that effect; and, if neceſſary, to exhibit the ſame, to the extent of a legal progreſs, before the Lords of council and ſeſſion, or other judges competent, to be judicially tranſumpted, and that on our own proper charges: Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, or others competent, to have the ſtrength of a decreet of the Lords, or other judges thereof, interponed thereto, that letters, in form as effeirs, may paſs hereon; and conſtitutes ——— our procurators, *&c.* Attour, to the effect the ſaid Mr. Andrew Roſs, and elders of the ſaid kirk of Tarbat, for themſelves, and in name and behalf of their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries aforeſaid, for the uſe and to the behoof of the ſaid poor and indigent perſons, with the preference above ſpecified, to decayed tenants and their widows, may be lawfully infeft in the ſaid yearly annuity, benefit and privilege above mentioned, to be holden *de nobis*, or *à nobis*, as ſaid is, we hereby make, conſtitute and ordain ———, or any one of you, our bailies in that part, to the effect after ſpecified, with full power, ample warrant and commiſſion, to paſs to the ground of the ſaid lands, mills, and others foreſaid, lying as ſaid is, and there give heritable ſtate and ſeiſin, actual, real and peaceable poſſeſſion, of all and haill the foreſaid annuity of thirty-ſix bolls bear, of the ſufficiency, quality, growth and meaſure foreſaid yearly, to be uplifted and taken betwixt Yule and Candlemas, forth of all and haill our ſaid quarter land of Weſter Gainies, parts, pendicles and pertinents thereof, lying and poſſeſſed in manner foreſaid, or any part or portion thereof, and readieſt mails, farms, profits and duties of the ſame, to be kilned, dryed, tranſported and grinded in meal, in manner above ſpecified; and alſo, of all and haill the foreſaid privileges and benefit of kilning and drying the ſaid bear, on the ground of the ſaid lands, and grinding the ſame in meal, at the ſaid mills of Tarbat and Tarrel, and free of all payment of multures, or other duties whatſoever, excepting as ſaid is; and likeways, with the privilege and benefit of having the ſame tranſported to and from the ſaid mills, by the ſaid tenants and poſſeſſors of the ſaid lands, as a part of their ſervice, and without any payment or exaction from the ſaid poor, or the ſaid miniſters and elders on their account, in manner above expreſſed, to the ſaid Mr. Andrew Roſs miniſter,

and elders of the ſaid kirk of Tarbat, for themſelves, and in name and behalf of their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries foreſaid, for the uſe and to the behoof of the ſaid poor and indigent perſons in our ſaid lands, particularly above mentioned, and with a preference to decayed tenants and their widows, in manner above rehearſed, and always obſerving the rules, orders, conſtitutions and appointments above expreſſed, and no otherways, or to their attornies, in their names, bearers of theſe preſents, by deliverance to them of earth and ſtone of the ſaid lands, clap of the ſaid mill, and one penny upon the ground, as uſe is; and this on no ways ye leave undone: The which to do, gives full power thereanent, by this our precept of ſeiſin, granted for that effect. In witneſs whereof, we have ſubſcribed theſe preſents, written by Mr. George Dallas, ſon to George Dallas of St. Martins, writer to his Majeſty's ſignet, with our hands, at Edinburgh, the 18th day of September 1686 years, before theſe witneſſes, Mr. William Denoon, miniſter at Pitcaplin, the ſaid George and Mr. George Dallas, and Mr. Daniel Urquhart, pedagogue to Mr. James M'Kenzie our ſon. (*Sic ſubſcribitur*) TARBAT. Will. Denoon witneſs, George Dallas witneſs, D. Urquhart witneſs, George Dallas witneſs.

Another MORTIFICATION *by a Gentleman, of a Croft of Land, but in the Duty conſiderable, lying at the City of* Dunkeld, *and in favours of the Poor thereof, and a good Stile, that may be a Rule to the like, and of what import ſoever.*

BE it known to all men by theſe preſent letters, me —— B. of T. heritable proprietor of the croft of land hereafter mortified, with the pertinents: Wit ye me, for the glory of God, Father, Son and Holy Ghoſt, and bleſſed Trinity, and undivided Unity, and in thankful acknowledgment of the great mercies, ſpiritual and temporal beſtowed upon me, and from pure and perfect charity, for maintenance and ſuſtentation of the poor and indigent, and for the worſhip and ſervice of God, our Creator, Redeemer and Sanctifier, to have ſold, annalzied, given, granted, diſponed, doted and mortified, likeas I, by theſe preſents, ſell, annalzie, give, grant, diſpone, dote and mortify, in the moſt ſure, firm, abſolute and entire manner eleemoſinary, to and in favours of the very reverend Mr. —— M. now miniſter of the city of Meikle D. and the preſent elders of the kirk of the ſaid city of Meikle D. and their ſucceſſors in the ſaid miniſtry and elderſhip, in being for the time, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor after mentioned, perpetually in all time coming, all and haill that croft of land, commonly called the Chancellor's Croft, with the pertinents, belonging heritably to me, lying within the pariſh of ——, within the ſheriffdom of ——, and bounded betwixt (*here the bounding was inſert*) and preſently poſſeſſed by ——, together with all right, title, intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which I, my predeceſſors and authors, heirs and ſucceſſors, had, have,

have, or any ways may have claim or pretend thereto, or to any part or portion thereof, or teinds of the ſame, or to any annualrent, annuity, or other duty whatſoever, yearly or termly upliftable forth of the ſame in time coming, beginning their entry thereto, and firſt year's payment of the mails, duties and caſualties thereof, of this inſtant crop and year of God ——, and betwixt Yule and Candlemas next, and ſo forth yearly thereafter, betwixt Yule and Candlemas, for ever in all time coming; and I bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeiſe the ſaid M. —— M. and his elders, and their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries aforeſaid, for the uſe and behoof of the poor after ſpecified, perpetually in all time coming, in all and haill the ſaid croft of land, commonly called the Chancellor's Croft, with the pertinents, pertaining heritably to me, as ſaid is, and lying and bounded in manner above mentioned, and preſently poſſeſſed as above expreſſed, and with free iſh and entry thereto, according to uſe and wont, and that by double infeftments and manner of holdings, the one thereof to be holden of me and my foreſaids, and the other of the ſaid infeftments to be holden from me and my foreſaids, of my lawful ſuperiors thereof, and both the ſaid infeftments, as well *de me* as *à me*, *in puram eleemoſinam*, *et in manum mortuam pro precibus et ſuffragiis* of the poor after ſpecified, having the benefit of this mortification, in the moſt ſerious, pious and devout manner that is poſſible, for his Majeſty's ſacred perſon, and his lineal and lawful ſucceſſors well-being, health, wealth, proſperity and happy peaceable reign over this his Majeſty's ancient kingdom, and all others his Majeſty's kingdoms, dominions and territories, whilſt ſun and moon endureth in the firmament, and crowning them with an everlaſting crown of glory thereafter, and likeways, for the true, holy and catholick church, and for me the donor, and my family, and all our benefactors, and that by reſignation or confirmation, in the option of the ſaid M. —— M. miniſter, and elders of the ſaid church of ——, and their ſucceſſors in place and office, the acceptation of the one of the ſaid infeftments to be no ways prejudicial to the other, and for that effect, to make, grant, ſubſcribe and deliver to them, as truſtees and ſide-commiſſaries foreſaid, for the uſe and behoof of the ſaid poor and indigent, ſufficient diſpoſitions, containing procuratories of reſignation, charters containing precepts of ſeiſin, and other ſecurities requiſite and neceſſary thereanent, with warrandice always, in manner under witten, and on —— proper charges and expences. And for the better obtaining of the foreſaid infeftment by reſignation, without prejudice of the other infeftment above written, I, by theſe preſents, make, conſtitute and ordain ——, and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevocable procurators, actors, factors and ſpecial errand bearers, to the effect after ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge, for me, in my name, and upon my behalf, to compear before my lawful ſuperiors of the ſaid croft of land, with the pertinents, or their commiſſioners, in their names, having their power to receive reſignations, and thereupon to grant new infeftments, any day and place lawful and convenient, and there, with all due humility and condign reverence, as becomes, purely and

ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, upgive, overgive and deliver, likeas I, by theſe preſents, reſign, ſurrender, upgive, overgive and deliver, all and haill the foreſaid croft of land, commonly called the Chancellor's Croft, with the pertinents, and with free iſh and entry thereto, as ſaid is, pertaining heritably to me, and lying bounded, and preſently poſſeſſed in manner above written, and here holden as for expreſſed, *brevitatis cauſa*; together with all right, title, intereſt, claim of right, property and poſſeſſion, as well petitor as poſſeſſor, which I, my predeceſſors, cedents and authors, heirs or ſucceſſors, had, have, or any ways may have, claim or pretend thereto, or to any part or portion thereof, or teinds of the ſame, or to any annualrent or other duty whatſoever, yearly or termly, upliftable forth of the ſame in time coming, in the hands of my ſaid lawful ſuperiors thereof, or their commiſſioners above ſpecified, in favours, and for new infeftment of the ſame, to be made and granted to the ſaid M. —— M. preſent miniſter of the ſaid city of ——, and to the preſent elders of the kirk of the ſaid city, and their ſucceſſors in the ſaid miniſtry and elderſhip, in being for the time, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor after mentioned, perpetually in all time coming, to be holden of the ſaid ſuperiors, in manner above rehearſed, and in ſuch due and competent form as accords; but with this expreſs condition, proviſion and declaration always, likeas it is hereby expreſly provided and declared, and be it ſo provided and declared, by the reſignation and infeftments to follow hereupon, that the ſaid miniſter and elders of the ſaid kirk of ——, preſent and to come, as truſtees and ſide-commiſſaries aforeſaid, are, and ſhall be holden and obliged, and, by the acceptation hereof, bind and oblige them, to keep and obſerve the rules, orders, conſtitutions and appointments following, *viz. Primo*, The ſaid M. —— M. preſent miniſter at the kirk of ——, and elders thereof, and their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries foreſaid, for the uſe and behoof of the poor and indigent after ſpecified, are hereby authoriſed, appointed and ordained, to intromit with, uplift, aſk, crave and receive the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the Chancellor's Croft, with the pertinents, hereby mortified and diſponed, as ſaid is, of the ſaid crop and year —— years, and yearly thereafter in all time coming, at the terms aforeſaid; and in caſe of not payment, to purſue and obtain decreets before the judge ordinary therefor, or, in their option, to grant and ſet tacks from three years to three years, to reſponſal tenants, for payment of the higheſt duties, cuſtom and ſervices that can be had therefor, by a publick roup, upon a day, and betwixt hours of that day, to be aſſigned and appointed for that effect; and eight days before which day, they are hereby ordained and appointed, to affix a paper or placade upon the croſs of the ſaid city, betwixt eleven and twelve of the clock in the forenoon, intimating to all who may be concerned, the day and hours of the ſaid roup, and what thereby intended, and that the tack and poſſeſſion will be given to thoſe who offer the greateſt duty therefor, and ſecures for payment thereof, without reſpect of perſons, kin, friend or ally; and by which tacks, the tackſman, his heirs, executors and ſucceſſors, are to be obliged, not only in punctual payment of the victual yearly, at the terms aforeſaid, and under reaſonable penalties, and at the

the leaſt, not only the higheſt prices that the like victual of the like quality gives within the pariſh of ——, each year of the tack, but alſo, to carry and tranſport the ſaid victual, and which is always to be of the very growth of the land itſelf, to any place within the city of —— that the ſaid miniſter and elders for the time ſhall pleaſe yearly to aſſign and appoint. *Secondly*, I hereby appoint, deſtinate and ordain the ſaid victual, after the ſame is received yearly from the tenant or tackſman, either to be ſold at the higheſt price that can be had therefor, or grinded in meal, and to be diſtributed yearly for the help, ſuſtenance and entertainment of the poor and indigent, living within the ſaid city of ——, with a preference ſtill to decayed honeſt perſons of either ſex, whoſe means, by the courſe of Providence, have failed them; and all to whom diſtributed, being perſons of a holy life, and Chriſtian converſation, and ſuch as, when in health, make conſcience to attend the ordinances, and are not known to be vicious, or deborders of what in charity given them. *Thirdly*, I hereby will, appoint and ordain, that the price had yearly for the ſaid victual, or quantity of meal made thereof, if grinded in meal, and ſo converted, and likeways the perſons to whom given and diſtributed, and what to each perſon, be written and recorded in the ſeſſion books, in all time coming. *Fourthly*, I hereby will, appoint and ordain, that no perſons that are able to entertain themſelves, or to work for their livelihood, ſhall be capable to receive, or have the benefit of the ſaid mortification; and even if thoſe that are indigent, and participate of the ſaid benefit, afterwards attain to health, come to means, by which they may ſubſiſt, and may work for a livelihood, albeit averſe from it, then, and in either of theſe caſes, they ſhall be, *ipſo facto*, cut off, and deprived of the ſaid benefit; and where ſome of the ſaid poor and indigent perſons deceaſe, and none others, for the time, to ſucceed in their places, then the part and portions of the perſons deceaſed, to be divided by the ſaid truſtees and ſide-commiſſaries amongſt the reſt, yearly, until another offer, who is capable of the ſaid benefit, by the rules and conſtitutions above and after mentioned. *Fifthly*, I hereby will and appoint, that all the poor, if in health, keep church on the Sabbath-day, and other days wherein divine worſhip may be had; and if any of them be found wilful abſtracters from, or contemners of the ordinance of God, they ſhall be reprehended by the reſpective miniſters, for the firſt and ſecond faults, and if they fall in the third, and that the ſame be proven againſt them before the miniſter and ſeſſion, truſtees and ſide-commiſſaries aforeſaid, they ſhall from thenceforth amit and tine the benefit of this mortification; and if at any time, any of the ſaid poor, ſhall be convicted of blaſphemy, ſpeaking reproachfully of his Majeſty, or his government, in church or ſtate, ſpeaking evil of the donor, or ſhall be found guilty of theft, or uncleanneſs, by fornication or adultery, habit of ſwearing, lying, or drunkenneſs, that theſe, and any of the ſaid faults being tried, cognoſced, and found proven by the ſaid miniſter and elders, preſent and to come, truſtees and ſide-commiſſaries aforeſaid, who are hereby appointed judges, in that caſe they ſhall from thenceforth amit and tine the benefit of the ſaid mortification, and others choſen in their places, in ſuch manner as if the delinquents were naturally dead: And as to the right of patronage, and power of nomination and admiſſion of the ſaid poor, I, for me and my foreſaids,

ſaids, hereby confer, entail, devolve upon, and freely and abſolutely bequeath and grant the ſame to the ſaid miniſter and elders of the ſaid kirk of ——, or plurality of them preſent, the miniſter being always *ſine quo non*. And further, I hereby will and appoint, that the preſent miniſter compear before the next adjacent ſheriff, commiſſary, or baillie of regality, or their deputes, and take the oath *de fideli*, to obſerve the rules, orders, conſtitutions and appointments foreſaid, ſo far as he is concerned; and that done, I hereby will and appoint him to adminiſtrate the like oath of faithful adminiſtration to the elders of his ſeſſion; and how oft there ſhall be a vacancy in the ſaid kirk of ——, as to the miniſter, the ſucceſſor in the ſaid miniſtry, is, immediately upon his entry to the charge, to take the like oath *de fideli*, before any of the ſaid judges, or their deputes, and the miniſter, from time to time, to adminiſtrate the like oath to the ſucceeding elders. And for the better knowledge of affairs, I hereby will and appoint this my mortification to be read, previous to the oath; and albeit there be no frequent vacancies, yet for the more due obſervance of all things, I appoint the ſame to be read in kirk and ſeſſion once a-year; and for the better preſervation hereof, appoints the ſame to be regiſtered in the books of council and ſeſſion, ſheriff-court-books of ——, or commiſſariot-books of ——, and three extracts thereof to be taken out, whereof one to be kept by me and my foreſaids, and another to be kept by the miniſter of ——, and the third, with the ſeiſin and confirmation to follow thereupon, to be kept in a lockar of the poors box of the pariſh of ——: And I hereby will and appoint, that my heirs and ſucceſſors, never quarrel or impugn this my mortification, but that they duly maintain the ſame, and adhere thereto, without any change, mutation, variation or alteration whatſoever, farther than is hereby allowed, as they will anſwer to God, and as they will to be ſaved at the great day of judgment: And alſo wills and appoints the ſaid miniſter and elders of ——, preſent and to come, to fulfil and preſerve the premiſſes, ſo far as they are concerned, without any innovation, change or alteration of the ſame, by any act, deed, or conſent of theirs, willingly or wittingly done by them, as they ſhall anſwer to God. And, *laſtly*, I bind and oblige me and my foreſaids, to warrant, acquit and defend the ſaid croft of land, with the pertinents, hereby mortified and diſponed to the ſaid truſtees and ſide-commiſſaries above ſpecified, and their ſucceſſors in the ſaid miniſtry and eldership, for the uſe and behoof of the ſaid poor, from all incumbrances and grounds of eviction whatſoever, as well not named as named, bygone, preſent as to come, at all hands, and againſt all deadly, and to make the writs and evidents forthcoming to them for that effect; and if neceſſary, to exhibit the ſame, to the extent of a legal progreſs, before the Lords of ſeſſion, or other judges competent, to be judicially tranſumed, and that on —— charges; and in caſe I be found not validly infeft in the ſaid croft, with the pertinents, with power to the ſaid miniſter and elders, or any one of them, or a perſon whom they ſhall appoint to do the ſame, and that by ſervice and retour, precept to follow thereupon, or otherways, as accords, whereby this preſent right and mortification may accreſce, and become effectual, for the uſe and ends above ſpecified. Conſenting theſe preſents be regiſtered in the books of council and ſeſſion, or others competent, to have the ſtrength

of

of a decreet of the Lords, or judges thereof, interponed thereto, that letters of horning, and others neceſſary, in form as effeirs, may paſs hereupon; and to that effect, conſtitutes ——— my procurators, *&c.* Attour, to the effect the ſaid M. —— M. preſent miniſter of the ſaid kirk, and elders thereof, for themſelves, and in name and behalf of their ſucceſſors in the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries aforeſaid, for the uſe and to the behoof of the ſaid poor and indigent perſons within the ſaid city of ——, with the preference above ſpecified, and in the terms above mentioned, may be lawfully infeft in the ſaid croft of land, called the Chancellor's Croft, with the pertinents, lying, bounded and poſſeſſed as ſaid is, to be holden *à me* or *de me*, in manner foreſaid, I, now as if I were infeft therein as heir to my predeceſſor, who died laſt veſt and ſeiſed in the ſame, or the undoubted, heritable and irredeemable right of the ſame, otherways fully eſtabliſhed in my perſon, and then as now, by theſe preſents, make, conſtitute and ordain ———, or any one of you, my baillies in that part, to the effect after ſpecified, with full and ample power, warrant and commiſſion to paſs to the ground thereof, and there give heritable ſtate and ſeiſin, actual, real and peaceable poſſeſſion of all and haill the ſaid croft of land, commonly called the Chancellor's Croft, with the pertinents, lying, bounded and poſſeſſed, as ſaid is, and with free iſh and entry thereto, according to uſe and wont, and which bounding is here holden as for expreſſed *brevitatis cauſa*, to the ſaid M. —— M. miniſter, and elders of the ſaid kirk of ——, for themſelves, and in name and behalf of their ſucceſſors, in the the ſaid miniſtry and elderſhip, as truſtees and ſide-commiſſaries aforeſaid, for the uſe and to the behoof of the ſaid poor and indigent perſons, within the ſaid city of ——, and with the preference above ſpecified, and obſerving the rules, orders, conſtitutions and appointments above expreſſed, and no otherways, or to their attornies, in their names, bearers of theſe preſents, by deliverance to them of earth and ſtone of the ſaid lands upon the ground thereof, as uſe is; and this on no ways ye leave undone: The which to do, gives full power thereanent, by this my precept of ſeiſin, granted for that effect. In witneſs whereof, I have ſubſcribed theſe preſents, written by ——, with my hand, at ——, the —— day of —— —— years, before theſe witneſſes,

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DISPOSITION *and* MORTIFICATION *by an Heritor, for himſelf, and as having Power and Faculty (by the Rights formerly granted and taken by him to ſome of his Children) to diſpone,* &c. *in favours of a Son of the third Marriage, and Heirs male of his Body, which failing, to the other Perſons after ſpecified, and their Heirs after mentioned, in the Terms after expreſſed; which failing, or contravening the Conditions after rehearſed, the Eſtate is mortified; of a pure Style, the Rules, Orders and Conſtitutions whereof moſt neat, firm and religious; and the more full and better whereof hardly to be found, as afterwards appears.*

BE

BE it known to all men, by theſe preſent letters, me Captain A. C. of K. his Majeſty's maſter ſlater; Foraſmuchas, by the right and diſpoſition dated the 17th day of February 1672, regiſtered in the books of council and ſeſſion the 24th day of December 1679 years, granted by J. Earl of T. &c. heritable proprietor of the lands and others after ſpecified, to me in liferent, and to A. C. (therein deſigned my ſecond lawful ſon) his heirs and aſſignees whatſoever, in fee, heritably and irredeemably, of all and haill the lands of E. now commonly called B. with the houſes, biggings, ———, then poſſeſſed by G. B. lying within the ſheriffdom of S. and likewiſe by the reſignation and charter following thereupon, by the ſuperior, and ſeiſin following on the ſame, it is ſpecially provided and condeſcended, That albeit the ſaid A. C. my ſon, and his heirs and aſſignees foreſaid, were provided and ſecured in the fee of the ſaid lands and others above written, yet it ſhould be always leiſom and lawful to me, and in my power, at any time in my lifetime, *etiam in articulo mortis*, by myſelf alone, without the advice of my ſaid ſon and his foreſaids, to make and grant all manner of heritable and irredeemable rights, diſpoſitions, alienations and infeftments, or redeemable rights, under reverſion, to whatſoever perſon or perſons, of the lands and others above ſpecified, or of any part and portion of the ſame, or to make and grant rights and infeftments to them of any annualrent or annualrents yearly to be uplifted forth thereof, or any part or portion of the ſame, and to contract debts and ſums of money thereupon, or otherways to uſe and diſpoſe upon the ſame, ſicklike, and as freely, and in the ſame form and manner, as if the ſaid A. C. and his foreſaids were not fiars, as ſaid is, of the lands and others above ſpecified. Likeas, by another right and conveyance made by me of the ſaid lands and others foreſaid, by virtue of the ſaid power and faculty, and of my other eſtate, dated the 8th day of Auguſt 1684 years, containing procuratory of reſignation, and divers other clauſes for new infeftment thereof, to be made and granted to myſelf, and the heirs male lawfully procreate, or to be procreate of my body, which failing, to my heirs female therein ſpecified, alſo of my own body, with and under the expreſs reſervations, proviſions, conditions, limitations and reſtrictions therein mentioned, and no otherways; and failing of heirs male and female of my body, as ſaid is, then and in that caſe, in favours and for new infeftment thereof, to be made and granted to the other perſons and ſide-commiſſaries therein and after named, for the uſe and behoof of the other perſons and poor therein and after expreſſed, by way of mortification; and, upon the proviſions, conditions, and obſervance of the orders and rules therein and after expreſſed, I have reſerved power to myſelf, at any time in my lifetime, *etiam in lecto ægritudinis et articulo mortis*, notwithſtanding of the ſaid right, and without conſent of all or either of the ſaid perſons, or of their tutors and curators, albeit minors for the time, to alter, innovate and change the ſaid tailzie, ſubſtitution, deſtination and mortification, in all, or any part thereof, as I pleaſe; and likewiſe, to make new tailzies, ſubſtitutions and deſtinations, by a paper apart under my hand, ſubſcribed before famous witneſſes, in favours of any perſon or perſons

I pleaſe,

I pleaſe, and in whoſe favours the ſaid other perſons, by the ſaid right, are obliged to denude, *omni habili modo;* and in like manner, power to myſelf, as ſaid is, to ſell, annalzie and diſpone, either in wadſet or irredeemably, the ſaid lands and others above ſpecified, contained in the ſaid firſt right above narrated, and likewiſe the other lands and eſtate mentioned and contained in the ſaid laſt right above narrated, and to contract debts thereupon, and to grant rights of liferents, annuities and others, forth thereof, and that to any perſon or perſons I pleaſe, and as to me ſhall ſeem expedient; and to make, grant, ſubſcribe and deliver diſpoſitions, charters, heritable bonds, and all other rights and ſecurities requiſite and neceſſary for that effect, containing procuratories of reſignation, and all other clauſes needful, and that ſicklike, in the ſame manner, and as freely in all reſpects, and to all intents and purpoſes, as if the foreſaid right, diſpoſition and mortification had never been made, granted or ſubſcribed, or any reſignation and infeftment thereupon expede or taken; and upon all which reſervations, proviſions, conditions, limitations, reſtrictions, and power and faculty reſerved to me, as ſaid is, the ſaid right, diſpoſition and mortification were granted and accepted, and reſignation and infeftment appointed to follow thereupon, and no otherways, as the ſaid haill rights in themſelves more fully is contained. And now, for the love and favour I have and bear towards G. C. my lawful ſon, procreate betwixt me and E. L. my preſent ſpouſe, and for his better ſubſiſtence and being in a world, and continuance and preſervation of my own memory; wit ye me, for myſelf, and by virtue of the ſaid power and faculty reſerved to me, in and by virtue of the ſaid rights above narrated, or in any other right taken by me in fee, in favours of any other perſon or perſons, of the ſaid lands and others foreſaid, and others, lands, ſums of money, and rights after-aſſigned and diſponed, to have given, granted, annalzied and diſponed, likeas I, by theſe preſents, for myſelf, and by virtue of the ſaid power and faculty, give, grant, annalzie and diſpone, to and in favours of the ſaid G. C. my ſon, and the heirs-male lawfully to be procreate of his body; which failing, to the heirs-male lawfully procreate or to be procreate of my own body in this preſent marriage; which failing, to the heirs-male lawfully to be procreate of my body in any other future marriage; which failing, to the heirs whatſoever lawfully to be procreate of the ſaid G. C. my ſon his body, (the eldeſt always having preference, without diviſion); which failing, to the heirs whatſoever of my own body in this preſent marriage; which failing, to the heirs whatſoever of my own body in any other future marriage, (the eldeſt always having preference, without diviſion, as ſaid is); which failing, to the heirs-male lawfully procreate or to be procreate betwixt the ſaid A. C. my ſon and C. S. his ſpouſe; which failing, to the heirs-male of the ſaid A. C. his body in any other marriage; which failing, to the heirs whatſoever, lawfully procreate or to be procreate of the ſaid A. C. his body in this preſent marriage; which failing, to the heirs whatſoever of his body in any other marriage, (the eldeſt heir female having always the preference, without diviſion); which failing, to A. N. ſon to G. N. Adane, procreate betwixt him and S. C. my

my ſiſter, and the heirs-male lawfully to be procreate of his body; which failing, to the heirs whatſoever lawfully to be procreate of his body, (the eldeſt heir female always ſucceeding, without diviſion, and that with and under the expreſs reſervations, proviſions, conditions, limitations and reſtrictions after mentioned, and no otherways); and failing of heirs-male and female procreate and deſcending of the ſaid G. C. his body, and likewiſe of my own body, in this or any future marriage, and of the ſaid A. C. my ſon his body in this or after-marriage, and of the ſaid A. N. and heirs of his body, in manner foreſaid; then, and in that caſe, I, for the glory of God, Father, Son, and Holy Ghoſt, holy and bleſſed Trinity and undivided Unity, and in thankful acknowledgment of the mercies, ſpiritual and temporal, beſtowed upon me, and from pure and perfect charity, for maintenance and ſuſtentation of the poor and indigent, for the worſhip and ſervice of God our Creator, Redeemer and Sanctifier, now as then, and then as now (failing as aforeſaid), by theſe preſents, for myſelf, and by virtue of the ſaid power and faculty above ſpecified, ſells, annalzies, gives, grants, diſpones, dotes and mortifies, in the moſt ſure, firm, abſolute and effectual manner eleemoſinary, to and in favours of the moderator and brethren of the exerciſe of the preſbytery of P. for the time being, and their ſucceſſors from time to time, moderators and brethren of the exerciſe of the ſaid preſbytery of P. perpetually thereafter in all time coming, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor, and others after-named; (and obſerving the rules, orders, conſtitutions and appointments after-expreſſed, and no otherwiſe), all and ſundry my lands and others after-ſpecified, *viz.* all and haill the foreſaid lands of E. L. now commonly called B. with houſes, biggings, yards, meadows, *&c.* occupied, poſſeſſed, and lying as ſaid is; and alſo, all and haill the kirk-lands, as well parſonage as vicarage, of the pariſh-kirk of T. called K. with the pendicle thereof called the lands of G. with the manor-place, and all and ſundry houſes, biggings, yards, ——— (excepting and reſerving always to the miniſter of T. and his ſucceſſors ſerving the cure at the kirk of T. for the time, four acres of the ſame lands, with the manſe, conform to the tenor of the act of parliament made thereanent, which is and has been poſſeſſed by the ſaid miniſter of T. and his predeceſſors, miniſters ſerving the cure at the ſaid kirk, and excepted forth of the rights granted to me and my predeceſſors and authors of the ſaid lands, with the pertinents) lying within the pariſh of T. regality of C. and ſheriffdom of P. And in like manner, I, for myſelf, and by virtue of the ſaid power and faculty, give, grant, annalzie and diſpone to the ſaid G. C. my ſon, and the heirs-male of his body, which failing as ſaid is, and that with and under the expreſs reſervations, proviſions, conditions, limitations and reſtrictions after-mentioned, and no otherwiſe; and failing of heirs-male and female procreate and deſcending of the ſaid G. C. his body, and likewiſe of my own body, in this or any future marriage, and of the ſaid A. C. alſo my ſon, his body, in this preſent or after-marriage, and of the ſaid A. N. and heirs of his body, in manner foreſaid; then, and in that caſe, I, for the cauſes above-mentioned, by theſe preſents, for myſelf, and by virtue of the ſaid power and faculty, ſells, annalzies, gives, grants, diſ-

pones,

pones, dotes and mortifies, in the moſt ſure, firm, abſolute and effectual manner eleemoſinary, to and in favours of the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. for the time being, and of their ſucceſſors, from time to time moderators and brethren of the exerciſe of the ſaid preſbytery of P. perpetually thereafter in all time coming, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor, and others after-named, (and obſerving the rules, orders, conſtitutions and appointments after-expreſſed, and no otherwiſe), all and haill the lands of H. with the tower, fortalice, manor-place, houſes, biggings, ———, and all and haill the ten pound land of old extent of O. with tower, fortalice, manor-place, ———, all lying within the ſheriffdom of P. acquired by me from Lady M. C. ſpouſe to Sir J. M. of R. advocate, and from her ſaid huſband for his intereſt, and alſo from A. Counteſs of T. conform to the two ſeveral diſpoſitions granted by them to me thereof, and under reverſion, by payment of the ſum of 20,000 merks Scots money, and the other ſums therein-ſpecified, and doing and performing the other clauſes and conditions therein mentioned: And I bind and oblige me, my heirs and ſucceſſors, duly and ſufficiently to infeft and ſeaſe the ſaid G. C. my ſon, and the heirs-male of his body, which failing, as ſaid is, (with and under the expreſs reſervations, proviſions, conditions, limitations and reſtrictions after-mentioned, and no otherwiſe), and failing of heirs-male and female procreate and deſcending of the ſaid G. C. his body, and likewiſe of my own body, in this or any future marriage, and of the ſaid A. my ſon his body, in this preſent or after-marriage, and of the ſaid A. N. and heirs of his body, in manner foreſaid; then, and in that caſe, to infeft and ſeaſe the ſaid moderator, and brethren of the exerciſe of the ſaid preſbytery of P. for the time being, and their ſucceſſors from time to time, moderators and brethren of the exerciſe of the ſaid preſbytery of P. perpetually thereafter in all time coming, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor, and others after-named, and obſerving the rules, orders, conſtitutions and appointments after-expreſſed, and no otherwiſe, in all and ſundry the foreſaid lands and others above diſponed, with the pertinents, heritably and irredeemably, and under reverſion *reſpectivè*, in manner as is above expreſſed; and reſerving to the ſaid miniſter of T. as is above rehearſed, and that in manner following, *viz.* the ſaid lands of E. called B. and in the ſaid lands of K. and pendicle thereof called C. with the manor-place, houſes, biggings, ———, by double infeftments and manner of holdings, the one thereof to be holden of me and my foreſaids in free-blench, for payment of one penny Scots money upon the ground of the ſaid lands and others foreſaid, at the feaſt and term of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly, and relieving me and my foreſaids of the feu-duties, blench-duties, and other duties due and payable by me to my lawful ſuperiors thereof in time coming after my deceaſe; and the other of the ſaid infeftments to be holden from me and my foreſaids of my immediate lawful ſuperiors of the ſame, ſicklike, and as freely in all reſpects, as I hold or may hold the ſame myſelf, and that by reſignation or confirmation, as beſt ſhall pleaſe the ſaid G. C. my ſon, and heirs of his body, which failing as ſaid is, and their foreſaids,

the acceptation of the one of the ſaid infeftments to be noways prejudicial to the other, and to make, grant, ſubſcribe and deliver to them all rights and ſecurities requiſite and neceſſary for that effect, (with and under the expreſs reſervations, proviſions, reſtrictions and limitations after-ſpecified); and in the caſe of the ſaid mortification its exiſtency, the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. obſerving the rules, orders, conſtitutions and appointments after-expreſſed, and no otherways; as alſo, to infeft and ſeiſe them, in the order, and according to the ſubſtitution and deſtination above-written, in all and haill the foreſaid lands of H. and ten pound land of old extent of O. with the tower, fortalice, manor-place, houſes, biggings, ———, under reverſion, as ſaid is; and that by reſignation thereof in the hands of my immediate lawful ſuperiors of the ſame after-ſpecified, or their commiſſioners after-mentioned, in manner, and to the effect after-expreſſed; and to grant, ſubſcribe and deliver to them procuratories of reſignation, and other ſecurities requiſite thereanent, (alſo with and under the reſervations, proviſions, conditions, reſtrictions and limitations after-mentioned); and in caſe the ſaid mortification exiſt, as ſaid is, the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. doing, performing and obſerving the rules, orders, conſtitutions and appointments after-rehearſed, and no otherways. And for the better obtaining of the infeftment above-written by reſignation, and without prejudice of the other infeftment above-ſpecified, I, for myſelf, and by virtue of the ſaid power and faculty, by theſe preſents, make, conſtitute and ordain ———, and each one of them, conjunctly and ſeverally, my very lawful, undoubted and irrevocable procurators, actors, factors, and ſpecial errand-bearers, to the effect after-ſpecified, giving, granting and committing to them, conjunctly and ſeverally, as ſaid is, my very full, free, plain power, expreſs bidding, mandate and charge, for me, in my name, and upon my behalf, to compear before the immediate lawful ſuperiors of the ſaid lands of E. (vulgarly called B.) with the pertinents, and alſo before our Sovereign Lord the King's moſt excellent Majeſty, or his royal ſucceſſors, immediate lawful ſuperiors of the haill remanent lands, mills, mill-lands, and others above diſponed, with the pertinents, or their reſpective commiſſioners in their names, having their power to receive reſignations, and thereupon to grant new infeftments, at and upon whatſoever day or days, place or places, lawful and convenient; and there, with ſuch due humility and condign reverence as becomes, purely and ſimply by ſtaff and baſton, as uſe is, to reſign, ſurrender, overgive and deliver, likeas I, for myſelf, and by virtue of the ſaid power and faculty, by theſe preſents, reſign, ſurrender, overgive and deliver, all and haill the foreſaid lands of E. now commonly called B. with houſes, biggings, ———, occupied, poſſeſſed, and lying as ſaid is; and alſo, all and haill the foreſaid kirk-lands, as well parſonage as vicarage, of the ſaid pariſh-kirk of T. called K. with the pendicle thereof called the lands of G. with the manor-place, and all and ſundry houſes, biggings, ——— (excepting and reſerving always to the ſaid miniſter of T. and his ſucceſſors ſerving the cure at the ſaid kirk of T. for the time, the ſaid four acres of the ſame lands with the manſe, conform to the ſaid act of parliament, in manner above-excepted and reſerved),

reſerved), all lying in manner foreſaid; and in like manner, all and haill the foreſaid lands of H. with the tower, fortalice, manor-place, houſes, biggings, ———, and all and haill the foreſaid ten pound land of old extent of O. with the tower, fortalice, manor-place, houſes, biggings, ———, alſo lying in manner foreſaid, in the hands of my ſaid reſpective immediate lawful ſuperiors thereof above ſpecified, or their commiſſioners above mentioned, in favours and for new infeftments of the ſame, to be made and granted to the ſaid G. C. my ſon, and the heirs-male lawfully to be procreate of his body; which failing, to the heirs-male lawfully procreate, or to be procreate, of my body in this preſent marriage; which failing, to the heirs-male lawfully to be procreate of my body in any other future marriage; which failing, to the heirs whatſoever lawfully to be procreate of the ſaid G. C. my ſon his body, (the eldeſt always having preference, without diviſion); which failing, to the heirs whatſoever of my own body in this preſent marriage; which failing, to the heirs whatſoever of my own body in any other future marriage, (the eldeſt always having preference, without diviſion, as ſaid is); which failing, to the heirs-male lawfully procreate, or to be procreate betwixt the ſaid A. C. my ſon and C. S. his ſpouſe; which failing, to the heirs-male of the ſaid A. C. his body in any other future marriage; which failing, to the heirs whatſoever, lawfully procreate or to be procreate of the ſaid A. C. his body in this preſent marriage; which failing, to the heirs whatſoever of his body in any other marriage, (the eldeſt heir-female having always the preference, without diviſion); which failing, to the ſaid A. N. and the heirs-male lawfully to be procreate of his body; which failing, to the heirs whatſoever lawfully to be procreate of his body, the eldeſt heir-female always ſucceeding, without diviſion, and that with and under the expreſs reſervations, proviſions, conditions, limitations and reſtrictions after-mentioned, and no otherwiſe; and failing of heirs-male and female, procreate and deſcending of the ſaid G. C. his body, and likewiſe of my own body, in this or any other future marriage, and of the ſaid A. C. my other ſon his body, in this preſent or after-marriage, and of the ſaid A. N. and heirs of his body, in manner foreſaid; then, and in that caſe, in favours and for new infeftment of the ſaid haill lands, mill, mill-lands, teinds parſonage and vicarage, manor-places, houſes, biggings, ———, to be made and granted to the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. for the time being, and their ſucceſſors from time to time, moderators and brethren of the ſaid preſbytery of P. perpetually thereafter in all time coming, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor, and others after-named, to whom the ſame, in the ſaid caſe, are mortified and diſponed, in the moſt ſure, firm, abſolute, and effectual manner eleemoſinary, as ſaid is, and obſerving the rules, orders, conſtitutions and appointments after expreſſed, and no otherways, to be holden of the ſaid reſpective ſuperiors and their ſucceſſors, in ſuch due and competent form as accords; and which right and diſpoſition above ſpecified, and other rights after mentioned, with the reſignation and infeftments to follow thereupon, are only made and granted by me in favours of the ſaid G. C. my ſon, and the heirs-male of his body, which failing,

to

to the other heirs of tailzie and proviſion above ſpecified, with and under the expreſs reſervations, proviſions, conditions, limitations and reſtrictions after mentioned; and failing of heirs-male and female of the ſaid G. C. his body, and of my own body, in this or any future marriage; as alſo, of the ſaid A. C. my ſon, and the ſaid A. N. their bodies, in manner foreſaid, in favours of the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. for the time, and their ſucceſſors aforeſaid therein, as truſtees and ſide-commiſſaries for the ſaid poor, and others after named, perpetually thereafter, with and under the proviſions and conditions under written, and upon the obſerving the rules, orders, conſtitutions and appointments after mentioned, and no otherway, and all hereby appointed to be particularly ſet down and engroſſed in the inſtrument of reſignation, and infeftments aforeſaid to follow hereupon, *viz. Firſt*, Reſerving always to me my liferent-right of the ſaid lands and others above diſponed, with the pertinents, during all the days of my life, and the benefit of the faculty reſerved by me to myſelf, in manner, and in the terms after ſpecified. *Secondly*, It is hereby expreſly provided and declared, that if at any time hereafter, the ſucceſſion of my own body ſhall deſcend to heirs-female, or in caſe of my deceaſe without ſucceſſion of my own body, and likeways failing of the ſaid A. N. without heirs-male of his body, the ſucceſſion ſhall deſcend to the heirs-female of his body; that then, and in that caſe, the eldeſt heir-female ſhall ſucceed without diviſion; and they, and the heirs-male and female deſcending of their bodies, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them, in all time thereafter, to aſſume, uſe and bear the ſurname of C. arms, cogniſance and ſtyle of K. nor ſhall it be leiſome and lawful to, or in the power of the heirs-male or female deſcending of the ſaid A. C. his body, or of the ſaid A. N. his body, in caſe they ſucceed in the right of the ſaid eſtate, by virtue of this preſent tailzie, to ſell, annalzie, wadſet, diſpone, or grant infeftmenrs of annualrent, or ſet in tack longer than the ſetter's lifetime, any of the lands or others above diſponed, with the pertinents, or yet the teinds thereof after aſſigned, nor contract debt thereupon, nor do any other fact or deed, civil or criminal, whereby the lands, teinds, and others above diſponed and aſſigned, or any part or portion thereof, may be any manner of way burdened, affected or evicted, compriſed or adjudged, or whereby the ſame may become any manner of way caduciary; nor ſhall it be leiſome for them, directly or indirectly, to alter or innovate this preſent tailzie, or order of ſucceſſion therein appointed, or to fruſtrate the donation and mortification herein ſet down, in the event or caſe before expreſſed. And in caſe the ſaid heirs-female, deſcending of my own or my ſaid childrens bodies, and failing of them, the heirs-female of the ſaid A. N. his body, ſhall fail to aſſume, and inſtantly uſe the name, arms and ſtyle, in manner foreſaid, or that the heirs-male or female of the ſaid A. C. his body, and failing of him by deceaſe, without ſucceſſion thereof, the ſaid A. N. and heirs-male or female of his body, ſhall ſell, annalzie, wadſet or diſpone, or grant infeftments of annualrent, or ſet in tack longer than the ſetter's lifetime, any of the lands and others above diſponed, or yet the teinds after aſſigned, or contract debt thereupon, or

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do any other fact or deed, civil or criminal, whereby the ſame may be any manner of way burdened, affected, evicted, appriſed or adjudged, or whereby the ſame may become any manner of way caduciary, or yet alter or innovate this preſent tailzie, or order of ſucceſſion therein appointed, or do any deed to fruſtrate the donation or mortification herein ſet down, in the event or caſe before expreſſed; and thereby, or by any of them contravened to the proviſions aforeſaid, then, and in either of theſe caſes, not only ſhall the ſaid deeds be null and void, in ſo far as the ſame may burden and affect the ſaid lands and others above diſponed, and teinds after aſſigned, or theſe who ſhall ſucceed them, but alſo the perſon contravener ſhall amit and tine all right he has, or can pretend, by virtue of this preſent right of tailzie, or otherways, to the ſaid lands, teinds, and others foreſaid, and the next in order of ſucceſſion, who would have ſucceeded therein if the contravener were naturally dead, ſhall have right thereto; and failing of the ſaid G. C. without heirs of his own body, and of other deſcendents of my own body, in this or any future marriage, and of the ſaid A. C. his body, in this or any after-marriage, and of the ſaid A. N. without heirs of his body, or that the heirs-male or female of the ſaid A. C. his body, and failing of them, the ſaid A. N. and heirs male and female of his body, upon whom the right of the ſaid lands, teinds, and others foreſaid, ſhall be entailed, contraveen the premiſſes, the ſaid moderator and brethren of the exerciſe or preſbytery foreſaid, ſhall have right thereto, and in favours of whom *reſpectivè* the contraveners ſhall be holden and obliged to denude, under the proviſions, limitations and reſtrictions always before mentioned; and it ſhall be lawful to the next in order of ſucceſſion, and failing of ſucceſſion, or in caſe of contravention, to the moderator and brethren of the exerciſe or preſbytery foreſaid for the time, and their ſucceſſors, from time to time, moderators and brethren of the ſaid exerciſe or preſbytery, as truſtees and ſide-commiſſaries for the ſaid poor, and others after mentioned, to purſue actions of declarator, compriſe or adjudge, for denuding the contraveners thereof, they always obſerving and fulfilling the preſent tailzie and condition of the ſame. And, in the *third* place, It is hereby expreſly provided and declared, that as the ſaid heirs-male and female of the ſaid A. C. his body, and failing of them, the ſaid A. N. and heirs-male and female of his body, in caſe the ſaid eſtate be devolved on them, have no power nor liberty to diſpone, annalzie or wadſet the lands and others above diſponed, with the pertinents and teinds after aſſigned, or grant rights of annualrent forth thereof, nor ſet tacks further than the granter's lifetime, or yet contract debt, or do any other deed whereby the lands and others foreſaid, and teinds after aſſigned, may be burdened, affected, evicted, appriſed or adjudged, or the ſaid mortification or donation fruſtrated, in manner above ſpecified; ſo it ſhall not be lawful to any of the ſaid heirs of tailzie, either male or female, to ſuffer and permit the ſaid lands and others above diſponed, and teinds thereof after aſſigned, or any part thereof, to be compriſed, adjudged, or otherways evicted, for any debts, or for feu-duties, blench-duties, non-entry-duties, miniſters and ſchoolmaſters ſtipends, reparation of kirk and kirk-yard dykes, or any other ground of eviction, debt or cauſe whatſoever, whereunto

whereunto they can be liable: And in caſe they ſhall do in the contrary, and not redeem any ſuch appriſings or adjudications within two years before the expiration of the legal, then, and in that caſe, and how ſoon the legal comes within the compaſs of two years of the expiring, as ſaid is, it ſhall be lawful to, and in the power of the next in the ſucceſſion and tailzie, to redeem the ſame, and to poſſeſs the haill lands and others above diſponed, and teinds after aſſigned, except what liferented, as ſaid is, and haill mails and duties thereof, ay and while they be reimburſed of what they pay, in order to the ſaid redemption, with their neceſſary expences, and annualrent *de die in diem*, after redemption, and during the not-payment: Neither, in the diſcharge of their intromiſſions, are they to be accountable for any more than they actually intromit with and uplift, and all miniſters ſtipend, and other publick burdens, and what elſe payable out of the lands, and for which they produce valid diſcharges and receipts firſt allowed and defalcate. In the *fourth* place, It is hereby expreſly provided and declared, that in caſe any of the heirs-male or female of the ſaid A. C. his body, and failing of them, the ſaid A. N. and his heirs-male or female of his body, ſhall, at the time of their ſucceſſion, be debitors, or liable in any debts or deeds, that then, and in that caſe, the ſame debts and deeds ſhall noways burden and affect the ſaid lands, teinds and others above ſpecified, or any part thereof, or yet the mails, farms, profits and duties of the ſame in any manner of way. And in caſe any of the ſaid perſons, or their heirs, contravene the premiſſes, it ſhall be leiſome to the next in order of ſucceſſion, or failing of ſucceſſion, or in caſe of contravention, to the ſaid moderator and brethren of the exerciſe and preſbytery foreſaid, for the time being, and their ſucceſſors from time to time, moderators and brethren of the ſaid exerciſe and preſbytery foreſaid, as truſtees and ſide-commiſſaries foreſaid, and for the uſe above and after ſpecified, to purſue actions of declarator, compriſe or adjudge, for denuding the contraveners thereof, they always obſerving the preſent tailzie, and conditions of the ſame. In the *fifth* place, It is hereby expreſly provided and declared, that, notwithſtanding of the prohibitory proviſions above ſpecified, yet it ſhall be leiſome and lawful to the heirs-male deſcending of the ſaid A. C. his body, in this or any future marriage, and to the ſaid A. N. and heirs-male of his body, in caſe the ſaid eſtate be devolved on them, to grant jointures to their wives forth of the ſaid lands and eſtate, but noways by annuities, or yearly annualrents, but by liferents of the property, and not exceeding a third thereof, which is to be alſo liable to a third of miniſter's ſtipends, and publick burdens occurring for the time; and which jointure is to be in full and plenary ſatisfaction of terces. And in caſe there be not heirs-male, but females to ſucceed in the ſaid eſtate, it is hereby provided and declared, that it ſhall be lawful to the ſaid heirs-female ſo ſucceeding, to provide their huſbands to liferents, not exceeding the half of the ſaid eſtate, in ſatisfaction of all rights of courteſy: And it ſhall be lawful to the ſaid heirs, whether male or female, ſucceeding to the ſaid eſtate, to provide their children, beſides the heirs, to ſums of money, the proviſions of their younger children not exceeding in the haill three years free rent, to be ſecured by infeftment in a part of the eſtate effeiring

feiring to the ſum, with requiſition at their ſixteen years of age, but carries annualrent, as well yearly and termly, until the ſaid age, as thereafter during the not-payment: And if, through not-payment, appriſing or adjudication follow, the perſon heritor for the time, ſhall be holden to redeem the ſame two years before expiring of the legal, or elſe the next in the right of ſucceſſion may do the ſame, and poſſeſs, until repaid, in manner, in the terms, and with the latitude above expreſſed; and which ſecurity ſhall alſo bear, notwithſtanding, premonition at any time, or then, as well as after. And farther, in caſe the ſaid eſtate, failing of heirs-male, ſhall be devolved upon the heirs-female, or eldeſt daughter without diviſion, as ſaid is, and that the father do not provide the younger children in his own lifetime, then, and in that caſe, the eldeſt daughter, as heir-female ſo ſucceeding, ſhall be holden and obliged, and by the acceptation hereof, bind and oblige them to pay the younger ſiſters competent portions, not exceeding in the whole three years free rent of the eſtate, and that at their eighteen years of age, or ſooner, if they marry, with annualrents thereafter during the not-payment, and in the mean time, to educate and aliment them, according to their degree and quality, until their ſaid eighteen years of age, or marriage *reſpectivè*. And, in the *ſixth* place, In reſpect the foreſaid lands of H. and O. with the manor-places, houſes, biggings, yards, mills, mill-lands, and others above ſpecified, hereby diſponed, are redeemable, and under reverſion from me, my heirs and ſucceſſors, by the ſaid A. Counteſs of T. and others having right to the ſaid reverſion, by payment or conſignation, in caſe of abſence or refuſal, of the ſum of 20,000 merks uſual money of this realm, and other ſums ſpecified and contained in the rights and infeftments granted to my cedents and authors, and upon the other proviſions and conditions therein contained, conceived in our favours; as alſo, in reſpect the tenements, and others generally above mentioned, but particularly ſet down, nominated and deſigned in the foreſaid former rights, pertaining heritably to me, and lying in the ſaid burgh of E. at leaſt that part thereof adjudged by me from J. B. —— are redeemable, and under reverſion, by act of parliament, by payment of the ſums contained in the decreet of adjudication led and deduced at my inſtance againſt him thereupon, and otherways thereby due of the law: Therefore, it is hereby expreſly provided and declared, that it ſhall not be leiſome for the ſaid A. C. my eldeſt ſon, or to the heirs-male or female of his body, and failing of them, to the ſaid A. N. or heirs-male or female of his body, and failing of them, for the ſaid truſtees and ſide-commiſſaries above and after ſpecified, to uplift the ſums due upon the ſaid lands of H. and O. with the pertinents, or yet the ſums due by virtue of the ſaid adjudication, except for the ſpecial uſe and end after mentioned, *viz.* for purchaſing convenient and well-holden land, for the uſes, ends and effects, and under the conditions and proviſions herein ſet down, and no otherways. And, in the *ſeventh* place, Becauſe, failing of heirs-male and female procreate or deſcending of the ſaid G. C. my ſon his body, and of my own body in this or any future marriage, and of heirs-male and female of the ſaid A. C. and A. N. their bodies, or in caſe of contravention, in manner foreſaid, not only the ſaid lands and others above diſponed, with the pertinents,

and teinds after aſſigned, but alſo the tenements, cellars, booths, vaults, yards, and others pertaining and belonging to me, lying within the burgh of E. are, by theſe preſents, and by virtue of the ſaid other right and conveyance made by me of the ſaid tenements, cellars, booths, vaults, yards, and others foreſaid, lying within the ſaid town of E. dated the 8th day of Auguſt 1684 years, procuratory of reſignation therein contained, and infeftments following, or competent to follow thereupon, and here holden as for expreſſed *brevitatis cauſa*, are ſold, diſponed and mortified by me to the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. in being for the time, and their ſucceſſors, moderators and brethren of the ſaid exerciſe of the ſaid preſbytery, or from time to time, perpetually in all time thereafter, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor, and others after named: Therefore, it is hereby expreſly provided and declared, likeas it ſhall be expreſly provided and declared, by the reſignation and infeftments to follow hereupon, and likeways by the infeftments to follow on the former procuratory of reſignation above narrated, and reſignation made by virtue thereof, that how ſoon the rights of the ſaid lands, tenements, cellars, booths, vaults, yards, and others above, and by the ſaid former right and procuratory diſponed, and teinds of the ſaid lands, with the pertinents, ſhall come to be devolved upon, and in favours of the ſaid moderator and brethren of the exerciſe of the ſaid preſbytery of P. in being for the time, and their ſucceſſors, moderators and brethren of the ſaid exerciſe or preſbytery, as truſtees and ſide-commiſſaries, for the uſe and behoof of the poor, and others after mentioned, and that either by non-exiſtence of the ſaid heirs, or by contravention in the cauſes foreſaid, that then, and immediately thereafter, the houſes, yards, orchards, parks, and office-houſes of K. ſhall be erected, converted, eſtabliſhed and founded in an hoſpital, to be deſigned and called, in all time thereafter, Captain A. C. his Majeſty's maſter-ſlater his hoſpital; wherein, by the ſight, and by the advice of the moderator for the time, and brethren of the exerciſe, or preſbytery foreſaid, or major part of them, with the conſent and concurrence of the archbiſhop of G. ſhall be ſeparated, ſet apart and conſecrated a convenient room, with a deſk and ſeats, alſo convenient, to be deſigned in all time thereafter, the oratory of the ſaid hoſpital; and ſicklike, the moderator and brethren foreſaid, or major part of them, ſhall deſign and ſet apart an hall and dining-room, and other convenient rooms for the poor, and other perſons after ſpecified, belonging to the ſaid hoſpital, to ly and lodge in, with beds and bed-cloaths ſuitable, with cellars, girnal-houſes, and other rooms convenient, brew-houſes and brewing-veſſels, and kitchen and kitchen-veſſels. In the *next* place, the ſaid moderator and brethren foreſaid, or major part of them, the moderator being always one, ſhall nominate and appoint, and conſtitute a factor for uplifting and ingathering of the rents of the ſaid lands, tenements, cellars, booths, vaults, yards, and others above diſponed, and teinds after aſſigned; with power to him to uſe warnings in their name, out-put and in-put tenants, and ſet the lands and others foreſaid, not under the rental which ſhall be ſubſcribed and given in to him the time of his entry, without conſent of the ſaid moderator and

major

major part of the ſaid brethren; and for keeping and holding of courts for the ſaid rents, and fining for unlaws, within the compaſs of heritor, and uplifting thereof, except as to the woods after ſpecified, for which there is a foreſter and keeper appointed, in manner after expreſſed; and to poind and diſtrenzie for the ſaid rents, fines and amerciaments, and to grant diſcharges thereupon, he being always accountable to the moderator and brethren foreſaid, or major part of them, whereof the moderator to be ſtill one, and that for the uſe of the poor, and others after mentioned. In the *third* place, After the ſaid factor ſo to be appointed, and accountable to them, hath uplifted a year's rent, and at fartheſt, within year and day after the ſaid moderator and brethren foreſaid, and their ſaid factor in their names, ſhall attain the poſſeſſion of the ſaid lands, tenements, cellars, booths, and others foreſaid, and for attaining whereof, by the acceptation of this preſent right, they ſhall be holden and obliged to do exact diligence, how ſoon the right ſhall devolve to them, they ſhall then nominate and appoint fifteen perſons of the name of C. kindred or relation of the dotar, if ſuch can be had, or can offer themſelves within this kingdom, ſpecially within the ſhires of A. and B. men of unblameable and ſober lives, not under the age of forty years, and of an unmarried life; and failing of perſons of my own name, kindred and relations, then ſuch other poor and decayed men-tenants out of the ſhires of S. and P. as the ſaid moderator and brethren foreſaid, or major part of them, whereof the ſaid moderator ſtill to be one, ſhall think fit, being always ſober, grave and indigent perſons, of good fame, and unmarried, and not under the age of fifty years, (the former of forty years being in favours of my own name, kindred and relation;) and which perſons ſo to be nominated, ſhall be preſented to the chaplain after mentioned, and by him admitted, collated and received to the haill benefit and privilege of being members of the ſaid hoſpital, in the chapel and oratory thereof; and being ſo preſented by them to the ſaid chaplain, and by him admitted, collated and received, as ſaid is, they ſhall enjoy the haill profits and privileges hereby appointed to the poor of the ſaid hoſpital, in manner, and upon the terms after-mentioned, during all the days of their lifetime: And for that effect, I the ſaid Captain A. C. in caſe the right be devolved on the ſaid moderator and brethren, and for the uſe foreſaid, as ſaid is, nominates, conſtitutes and appoints the ſaid moderator and brethren before mentioned, truſtees and ſide-commiſſaries foreſaid, or major part of them for the time being, the moderator being ſtill one, patrons of the ſaid hoſpital, for electing, nominating and preſenting the poor before mentioned, and other perſons after ſpecified, and conferring upon them the rights, privileges, profits and benefits of the poor, or other members hereafter appointed in the ſaid hoſpital, and belonging thereto; and to which moderator and brethren of the exerciſe or preſbytery, ſide-commiſſaries and patrons foreſaid, or major part of them in being for the time, the moderator being ſtill one, I alſo hereby commit, for the uſe of the ſaid hoſpital, and members thereof, according to the rules, orders and deſtinations hereby appointed, and no otherways, the management of the rents and revenue of the lands and others before mentioned, hereby mortified and doted to the ſaid hoſpital;

and likeways of the tenements, houſes, cellars, vaults, booths, and others mortified by me, by the former procuratory above narrated; as alſo, the inſpection of the edifices, houſes, parks and yards, the lives, manners and converſations of the poor, and members of the ſaid hoſpital, the advocation and defence of the ſaid hoſpital, lands, rights and privileges thereof, preſently and formerly mortified, or that ſhall happen hereafter to be mortified or accreſce thereto; and the purſuing and defence of all action and intereſt wherein the ſaid hoſpital poor, or members thereof, may be concerned; the out-putting and in-putting of chamberlains and factors, for receiving of the rents, the taking of caution for their being accountable, the changing or removing of tenants by themſelves, or their chamberlains and factors aforeſaid appointed by them, the ſetting of long or ſhort tacks, not exceeding the ſpace of 19 years at once, and ſpecially without prejudice of the generality, the due and punctual obſervance of the rules, orders and ſtatutes of this foundation, without any change or alteration thereof; and which, by acceptation of this preſent right, they are faithfully to obſerve, and cauſe be obſerved, obtempered and fulfilled, ſo far as in them lies, without any change, mutation, alteration or variation, as they ſhall be anſwerable to God Almighty at the great day, to which they ſubject themſelves, if wittingly and willingly they tranſgreſs or fail in obſervance thereof: Likeas, the moderator for the time being, and brethren foreſaid, and their ſucceſſors in all time coming, ſhall be holden and obliged, immediately, and upon the acceptation of this preſent right of truſt, patronage and advocation foreſaid, to ſwear and take an oath, leally, faithfully and truly, to the beſt of their power, ſkill and knowledge, to adminiſtrate and defend, inſpect and obſerve the lands, tenements, cellars, booths, vaults, teinds, and others the patrimony of the ſaid hoſpital, rights and privileges thereof, manners, eſtate and condition of the poor members thereof, and maintain the rules, orders, ſtatutes and appointments hereby ſettled, without any innovation or alteration thereof, by any act, deed, or conſent of theirs, wittingly and willingly done by them, as they ſhall anſwer to God; and which oath ſhall, at the time of their firſt entry to the ſaid right and office, be adminiſtered to the moderator of P. for the time, by the archbiſhop of G. for the time being; or in caſe of his deceaſe at the time, or abſence out of the kingdom, by the vicar of that province, and afterwards by the ſaid moderator to the remanent brethren of the ſaid preſbytery, and in all time thereafter by the moderator for the time, to ſuch of the brethren of the ſaid exerciſe, or members of the ſaid preſbytery, as from time to time ſhall become members thereof, and that before they enter upon the exerciſe of the right and truſt hereby committed and given to them; and the ſame oath ſhall thereafter be adminiſtered to the ſucceeding moderator, from time to time, by the brethren foreſaid, or major part of them, before the ſaid moderator's entry upon the exerciſe of his right and truſt. And becauſe it is provided, that the perſons of my own name, kindred and relation, ſhall be preferred to be members of the ſaid hoſpital, and enjoy the profits and privilege thereof; therefore, I hereby provide, appoint and ordain, that before the ſaid moderator and brethren foreſaid, proceed to the nomination, election and admiſſion of the poor of the ſaid hoſpital, at the firſt or

ſubſequent

ſubſequent times, they ſhall affix, and cauſe be affixed upon the market croſſes of E. A. and B. and upon the moſt patent door of the cathedral church of A. programs or placades, bearing, that upon a certain day, to be ſet down and prefixed, they are to nominate and elect one or more, as occaſion offers, diſcreet, ſober and indigent perſons, of good fame and report, to the right and privilege of the poor and indigent of the hoſpital above ſpecified, erected by me in the caſe foreſaid, and under the denomination above expreſſed; and therefore, deſiring and requiring ſuch perſons as are of my own name, kindred and relation, who deſires to be admitted to the benefit and privilege of that ſociety and corporation, or who can inſtruct themſelves to be of my name, kindred and relation, and of the age of forty years, as ſaid is, to compear at ſuch a place, ſuch a day, and to bring with them teſtimonials from the miniſter, church-wardens, or elders of the pariſh where they reſide, of their name, deſignation, honeſty and ſobriety in their life and converſation, and from the ſheriffs of the ſhires, baillies of the burghs and regalities, ſtewards of ſtewartries, and baillies of bailliaries where they reſide, bearing, that upon cognition and trial, taken by the oaths of credible perſons, the bearers are related to me in ſuch degrees and relations in affinity or conſanguinity; certifying all perſons concerned, that in caſe no ſuch perſon, of name and relation foreſaid, bearing the certificates afore mentioned, ſhall compear at the day appointed, that then, and in that caſe, they will proceed to the election and admiſſion of ſuch perſons within the other ſhires above preſcribed, as members and poor of the ſaid hoſpital, as they in charity ſhall have reaſon to conſider to be indigent perſons, of honeſt fame, reputation and ſobriety, as ſaid is: *Item*, Failing of the ſaid G. C. my ſon, and heirs of his body, and of myſelf, and heirs-male and female procreate, and deſcending of my body, in manner foreſaid, in this preſent or after marriage, and of the ſaid A. C. his body, in this preſent or future marriage, which failing, of the ſaid A. N. his body, ſo that the ſaid hoſpital do thereby exiſt, I hereby appoint and allow to each of the ſaid fifteen perſons, the ſum of fourſcore pounds, uſual money of this realm yearly, at Whitſunday and Martinmas, by equal portions, for their diet and aliment, and the ſum of fifty merks money foreſaid yearly, for their clothes, linens, gowns and other neceſſaries after mentioned, to be paid forth of the rents, profits and duties of the lands, tenements, cellars, booths, vaults, teinds and others above expreſſed, by the ſaid factor and chamberlains, to the matron after ſpecified, for the end and uſe after expreſſed: *Item*, I appoint and ordain the truſtees, fide-commiſſaries and patrons foreſaid, to make election of a grave matron, of ſober and diſcreet converſation, not under the age of fifty years, widow and unmarried, to whom I hereby appoint the foreſaid ſums, allowed for the maintenance of the poor of the ſaid hoſpital, to be given in, and paid by the ſaid factor and chamberlain, at the ſaid two terms in the year, by equal portions and diviſions; and likeways, the foreſaid ſums appointed for their clothes, linens, gowns, and other neceſſaries after ſpecified, to be paid in to her, at ſuch times as the like may be beſt and cheapeſt had, and ſhall be preſcribed by the ſaid patrons, but ſtill ſo as the ſame may be in readineſs againſt the firſt of January yearly, after their entry to the ſaid hoſpital: *Item*, I appoint and ordain the ſaid matron, with the ſums a-

foreſaid,

foresaid, destinated for maintenance and diet, to provide duly and timeously, provision for the aliment and maintenance of the poor of the said hospital, and others appointed hereby, and by the said former right and procuratory, to be maintained, and that suitable to the said allowance hereby given: *Item*, I appoint and ordain the said matron, to provide for them clothes, linens, stockings, shoes and gowns, likeways suitable to the said allowance hereby given, and to keep the keys of the cellars, pantries, store-houses and wardrobes, and all other rooms where clothes and provisions are appointed to be kept; and also I appoint her to keep a compt-book of what is weekly expended for any of the causes before mentioned, which is to be made up each Saturday, and subscribed or marked by herself, and any two of the poor of the said hospital, which, from time to time, shall be named by the patrons and trustees, to see the accompt made, and at which accompt, any of the poor of the said hospital who pleases, may be present, to control and object against the same, if any reason they have, and which matron is hereby privileged to employ a servant-maid, for making ready the victuals and daily provisions, and to perform all acts of cookery, sweeping, cleansing and making clean the rooms, making of the beds, washing of the linens, and such other necessary houshold acts, as from time to time, they shall be appointed to do and perform by the said matron; and which matron and her maid, are hereby obliged dutifully to attend the sick of the said hospital, when occasion offers; and I hereby ordain and appoint, that there be a convenient house and lodging without the gates of the said hospital, for the said matron and servant maid's use and accommodation; and I hereby appoint and allow the sum of one hundred pounds Scots yearly, to the said matron for her salary and fee, and twelve pounds money foresaid yearly to the said maid for her fee, and both to be paid at Whitsunday and Martinmas, by equal portions, in manner foresaid; and I appoint the said matron to diet at the common table, with the poor of the said hospital, or, as she pleases, by herself, and the servant-maid to have her entertainment of what is left, and not consumed at the said table: *Item*, I appoint and ordain a gardener to be named by the said patron, for keeping in order the gardens and orchards of the said hospital, cultivating, labouring and manuring of the same, planting of fruit trees and other trees, flowers, kail and other herbs for the necessary use of the said hospital, from time to time; and recommends to the said patrons, that, if possible, he be a person that has some skill in the art of chirurgery and apothecary, that he may be of greater use for the poor, in giving purgations, drawing blood, and the like, in cases of necessity; and which gardener, I hereby appoint to be also porter of the said hospital, and by himself or his servants, to exerce the said office, and keep the keys of the gates; and likeways, he is to brew the ale and beer for the use of the said hospital, according as he shall, from time to time, receive bear or malt from the said matron, and when brewed, deliver in the same to the cellars, whereof the said matron is to be keeper in manner foresaid; and to the which gardener, upon the considerations aforesaid, I hereby allow and appoint the superplus benefit of the gardens and orchards, over and above what shall be requisite for the use of the poor of the said hospital, and members thereof; and farther, for his own pains and labour, and of such as he shall employ, I

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ordain him an houſe for himſelf and his family to dwell in, and one hundred merks money foreſaid of fee yearly, to be paid at Whitſunday and Martinmas, by equal portions, as ſaid is, and that in place of all farther fee or aliment he or his ſervants can claim or pretend to, either as gardener, porter or brewer: *Item*, I ordain and appoint the poor and other members of the ſaid hoſpital, duly and punctually to attend divine prayer and worſhip in the oratory of the ſaid hoſpital, twice a day, *viz.* at nine o'clock in the morning, and ſix of the clock at night; and for the better performing of this duty timeouſly and orderly, I nominate and appoint the miniſter of the church of T. for the time being, and his ſucceſſors ſerving the cure thereat, chaplains of the ſaid hoſpital, and ordains him daily, at the ſaid hours appointed, to perform divine ſervice in the ſaid oratory, in the form and manner which ſhall be preſcribed by the moſt reverend father in God, the archbiſhop of G. and the reverend moderator and brethren of the exerciſe of the preſbytery of P. whom I earneſtly intreat and beſeech to ſet down, and eſtabliſh a conſtant form of prayer for evening and morning; and particularly, for the King's Majeſty, and his lineal and royal ſucceſſors, for the ſtate of the church univerſal, and particularly for the kirk of Britain and Ireland, and the government thereof by archbiſhops, biſhops and remanent clergy, preſbyters and deacons; and I humbly recommend to the archbiſhop, preſbytery, and brethren foreſaid, that they may appoint, in the ſaid publick ſervice, praiſe and thanks to be given to Almighty God, for bleſſing me, the donor, and enabling and inclining me to make and ſettle the foreſaid mortification, with ſuch thankful commemoration of my name as they ſhall think fit, and conſiſtent with the foreſaid office and worſhip: And likewiſe, I recommend to the ſaid archbiſhop, moderator, and brethren foreſaid, to ſet down and preſcribe a ſet-form of grace before and after meat, which ſhall be conſtantly uſed when they eat in common, and which is appointed to be ſaid and performed by ſuch of the poor members as the ſaid moderator, and brethren foreſaid, from time to time ſhall appoint; and that, each morning and evening, ſuch portions of the holy ſcripture ſhall be read, and ſuch portions of pſalms ſung, as the archbiſhop, moderator, and brethren foreſaid, ſhall ſet down and appoint. And becauſe the miniſter of the ſaid church of T. *alias* S. is not only miniſter of the pariſh where the ſaid hoſpital is, but alſo, I have appointed him to perform the worſhip aforeſaid daily, morning and evening; and I hereby likeways appoint him, to viſit, exhort, and inſtruct the members of the ſaid hoſpital, as occaſion offers; I therefor, for his pains and farther encouragement, allow, ordain, and appoint to him and his ſucceſſors, as chaplains foreſaid of the ſaid oratory, the ſum of 200 merks money foreſaid yearly, to be paid to them at Whitſunday and Martinmas, by equal portions, as ſaid is, forth of the rents, profits and duties of the ſaid lands and others before and now mortified and diſponed; and in caſe, through ſickneſs, or other neceſſary cauſe of abſence, the ſaid miniſter ſhall not be able to attend perſonally, the performance of the ſaid office of prayers, praiſes and lectures, I nominate and appoint (in caſe of ſickneſs, or neceſſary abſence, as ſaid is) the reader of the ſaid church of T. *alias* St. Bride, for the time being, to officiate in his abſence; to whom I alſo recommend, once

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in the month, to catechiſe the poor, and other members of the ſaid hoſpital, upon theſe grounds of faith and doctrine ſettled and appointed in any catechiſm approven or to be approven by the church of Scotland: *Item*, As I have now, and before, mortified the woods of the ſaid lands of K. and G. and others foreſaid, as well as the lands themſelves, for the ends and uſes above ſpecified; ſo, as before, I hereby now deſtinate and appoint the ſame woods that are now, and hereafter ſhall be on the ſaid lands, pertinents, and pendicles thereof, to be kept, preſerved, and made uſe of, for repairing and upholding the houſes of the tenants of the mortified lands, and for the office-houſes of the ſaid hoſpital; and, for the better preſervation of the ſame, and planting, after-ſpecified, about the houſe, I nominate, conſtitute and appoint the reader of the ſaid church of T. for the time being, my foreſter, giving, granting, and committing to him my full power, in name of myſelf, and poor in the ſaid hoſpital, and patrons thereof, to call and convene, by all actions competent of the law, all and whatſoever perſons who ſhall cut and deſtroy the ſaid woods and planting, and haining about the houſe and hoſpital, breaking down the fences thereof, or paſture therein without leave or warrant, (only the tenants ſhall have ſtill the privilege of paſturing within the ſaid woods, and the miniſter for his four ſoums, but not to deſtroy or cut the woods); and for his ſaid care and pains, as reader and foreſter foreſaid, I appoint and allow to him the ſum of one hundred merks money foreſaid yearly, to be paid to him at Whitſunday and Martinmas, by equal portions as ſaid is, forth of the rents, profits and duties of the lands, cellars, booths, tenements, and others above mortified and diſponed, with the pertinents; and likewiſe I appoint and allow to him, the haill fines and amerciaments of ſuch as ſhall be found guilty of cutting of green wood, breaking of fences, or paſturing therein without warrant, ſo far as the law is applicable to the proprietors of the ſaid wood, only the tenants are to have the privilege of paſturing in the ſaid woods, and the miniſter for his four ſoums, in manner foreſaid: *Item*, I will and appoint, that the ſaid fifteen perſons, poor, and members of the ſaid hoſpital, and ſuch other as from time to time ſhall be added to the ſaid number (in the event mentioned), that they ſhall conſtantly wear a long purple-coloured gown, cap, and ſtockings conform, and that they ſhall conſtantly abide and reſide in the ſaid hoſpital, and ſhall not ly forth thereof by the ſpace of one night, without warrant and leave from the ſaid chaplain, and in his abſence from the reader, and that allenarly for the neceſſary occaſion of viſiting their near relations, and at fartheſt not exceeding the number of four days together, and at one time; as alſo, the ſaid members of the ſaid hoſpital, matron, maid, gardener, and his ſervants foreſaid, ſhall conſtantly attend morning and evening prayers, and noways abſent themſelves therefrom, except for reaſonable cauſes ſhown and known to the chaplain aforeſaid, or, in caſe of his ſickneſs or neceſſary abſence, to the ſaid reader; and ſicklike, ſhall dutifully and conſtantly attend divine worſhip and ſervice in the ſaid church of T. forenoon and afternoon the ſabbath-days, from the beginning to the end thereof, in their appointed habits, and to attend upon the week-days worſhip and ſervice in the ſaid church, whenſoever there is occaſion therefore;

therefor; in which attendance if they fail, without reaſonable cauſes to be allowed by the chaplain, they ſhall for the firſt fault be publickly noticed and reproved, and for the ſecond debarred from the publick table for three days, and only allowed bread and water, and for the third fault they ſhall tine and amit their place in the ſaid hoſpital, and others will be choſen in their places: And in like manner I ordain and appoint, that if any of the members of the ſaid hoſpital ſhall be found cuſtomary ſwearers, or given to drunkenneſs, that for the firſt and ſecond fault they ſhall be proceeded againſt as in the former caſe, and for the third fault they ſhall be excluded, and others choſen in their place by the ſaid patron and brethren foreſaid, in manner before mentioned: And if at any time any members of the ſaid hoſpital ſhall be convicted of blaſphemy, ſpeaking reproachfully of his Majeſty, or his government in church or ſtate, ſpeaking evil of the donor, or ſhall be found guilty of theft, or uncleanneſs by fornication or adultery, or by cruel beating of their brethren, members or ſervants of the ſaid hoſpital; that theſe, in any of the ſaid faults, being tried, cognoſced, and found proven by the moderator and brethren, patrons foreſaid, they ſhall be extruded from the ſaid hoſpital, and from all benefit of membership therein, and others choſen in their places, in ſuch manner as if the delinquents were naturally dead: *Item*, I nominate and appoint the clerk of the preſbytery for the time, to be clerk to the ſaid hoſpital, and who is to keep a regiſter and record of the members of the ſaid hoſpital, their admiſſion from time to time, and of the yearly compts and rents, charge and diſcharge of the ſaid hoſpital, and of the contracts and agreements with factors and chamberlains, and of the tacks ſet to tenants, and of the haill orders, rules, procedures, and warrants of the patrons and truſtees, and of the reſpective ſederunts, and what concluded therein, and who is alſo to mark and ſet down in his ſaid regiſter and record, any papers taken out of the ſaid charter-cheſt, for purſuits and proceſſes, to whom delivered, and when delivered back; and which clerk is conſtantly to be preſent at the opening of the ſaid charter-cheſt; and for his pains, I hereby appoint and allow to him the ſum of twenty pounds Scots money yearly, to be paid to him at Whitſunday and Martinmas by equal portions, forth of the rents, profits and duties of the lands and others before and now mortified: *Item*, I ordain, in caſe of the failzie of ſucceſſion of the ſaid G. C. his body, and alſo of my own body, in this or any future marriage, and of the ſaid A. C. his body, which failing, the ſaid A. N. and heirs of his body, and that thereupon this my mortification take effect, that my charter-cheſt be kept within a ſecure convenient charter-houſe, within the ſaid hoſpital, and which ſhall have thereupon three different locks and keys, and that one key thereof be kept by the moderator of the preſbytery, and his ſucceſſors, moderators thereof, and another key by the chaplain, and his ſucceſſors in that office; and when the chaplain falls to be moderator, his key to be kept by the parſon of P. and a third to be kept by one of the moſt indigent of the poor of the ſaid hoſpital, to be deſigned and named by the moderator and brethren foreſaid, foreman of the poor of the ſaid hoſpital: And I ordain, that there be no acceſs to the charter-cheſt, without theſe three and the clerk; and that whenever

any paper ſhall be taken out of the ſaid charter-cheſt, the receiver ſhall give a receipt for them, and the ſaid receipt to be put and kept in the ſaid charter-cheſt, until the ſaid papers be reſtored accordingly: *Item*, Becauſe I am hopeful and confident, that (except in the caſe of a general calamity, war, and devaſtation, which God in his mercy prevent) the rents and revenues of the lands, tenements, and others above mortified, will be more than defray and exceed the burdens and allowance hereby appointed; therefore I will and appoint, that the ſuperplus thereof be employed by the ſaid moderator and brethren, truſtees, ſide-commiſſaries, and patrons foreſaid, for upholding and maintaining the edifices, and building of the ſaid hoſpital, furniſhing the neceſſary utenſils and domicils which they ſhall find neceſſary thereto; as alſo, for furniſhing and providing the poor in neceſſary fewel, ſo far as the tenants are not, nor ſhall not from time to time be obliged to in their tacks, for defraying of incident charges in law-ſuits, if any ſhall happen to occur; and whatever ſuperplus can be made from each year, upon cloſing accompts, I will and appoint the ſame to be put forth upon ſufficient ſecurity; and when the ſame ſhall amount to ſuch a ſtock as may yield, of ordinary annualrent, one hundred pounds Scots, to nominate, chuſe and elect a new member, in manner foreſaid, to be added to the number of the ſaid poor from time to time, as the ſame ſhall accreſce; and wherein I humbly beſeech, and confidently expect the uttermoſt and exact care and diligence of my ſaid truſtees, as they would deſerve the bleſſing of God, and encourage others to make ſuch mortifications: *Item*, I will and appoint the ſaid moderator, and brethren of the exerciſe or preſbytery foreſaid, patrons, ſide-commiſſaries, and truſtees before-mentioned, to meet and convene twice in the year at the ſaid hoſpital, *viz.* the firſt Tueſday of April, and firſt Tueſday of October yearly; and with them I appoint the ſaid clerk to be preſent, who ſhall openly and publickly read, in the audience of the whole poor, and members of the ſaid hoſpital, at each meeting, the rules, orders and articles of this foundation; and they are to proceed from rule to rule, article to article, and are to cognoſce and conſider how far the ſame is obſerved and fulfilled; and if any thing, by overſight and inadvertency, be contravened, to help the ſame afterward, and to inquire and inſpect into the manners and converſations of the poor, and members of the ſaid hoſpital, and to puniſh, deprive, and exclude, as they ſhall find cauſe, (ſtill keeping and obſerving my will and appointment), and to order and ſet down ſuch inſtructions for the management of the affairs of the ſaid hoſpital, (obſerving ſtill the rules aforeſaid), as they, or major part of them, ſhall agree to; which are to be written and recorded by the ſaid clerk in the regiſter of the ſaid hoſpital, and each federunt ſubſcribed by the moderator and clerk: *Item*, I will, the ſaid moderator and brethren to appoint one of their number to preach in the ſaid hoſpital, each of the ſaid two diets of meeting; and, for preventing of any perſonal expences to the ſaid moderator and brethren, when they meet at the ſaid hoſpital, upon the affairs thereof, twice in the year, as ſaid is, I will and appoint the ſaid matron, to provide a dinner for the ſaid moderator and brethren, each diet at meeting; and I hereby allow twenty-five merks Scots

for

for each dinner, to be paid in to her beforehand by the ſaid chamberlain, and to be allowed to him in the accompt of the rents yearly, when the ſame are cleared and adjuſted. And for the better obſervance of this my will and appointment, and obſervation of my religious intention in the foundation foreſaid, I nominate and appoint the archbiſhop of G. for the time being, where the ſaid hoſpital is founded, to be overſeer of this my foundation, committing to him the care and inſpection thereof; and that the patrons, ſide-commiſſaries, and truſtees aforeſaid, do their duties therein; and requeſts them, as their affairs or occaſions will permit, and when their affairs will not allow, to delegate two godly and pious men, of the brethren of the other preſbyteries in the dioceſe, (and who are to make report), to meet with the patrons and truſtees foreſaid, at the foreſaid general diets of meeting, that they may ſee and conſider, if my will, purpoſe and intention be religiouſly obſerved; and in caſe, upon examination and clear evidence had, it be found, that the ſaid patrons, truſtees, and ſide-commiſſaries foreſaid, have not accepted the ſaid truſt, or have not given their oath *de fideli*, upon their firſt entry, and thereafter from time to time, or having accepted, and given their oath, that they (contrary to the truſt repoſed in them, and oath given conform) have wilfully and wittingly contravened my ſaid will and pure intention in the ſaid mortification, by altering or violating the acts, orders, rules, conſtitutions and appointments above-ſpecified, contrary to their oath; then, and in either of theſe caſes, they ſhall amit and tine all right competent to them by this preſent diſpoſition and mortification, and the ſame ſhall *ipſo facto* accreſce, appertain and belong to ſuch patrons, truſtees, and ſide-commiſſaries, as the ſaid archbiſhop of G. (where the ſaid hoſpital is) ſhall pleaſe nominate and appoint, and devolve the truſt upon; and the ſaid moderator, and brethren of the exerciſe or preſbytery of P. ſhall be holden and obliged to denude themſelves thereof in their favours, *omni habili modo*, for the uſe and behoof of the poor, and other members of the ſaid hoſpital, (the ſaid perſons ſo to be nominated being religious perſons, and in holy orders, and not laicks, and they ſtill obſerving and obtempering my will and appointment, rules, orders and conſtitutions herein ſet down, and giving their oath *de fideli* upon their firſt and after-entry to the truſt, *ut ſupra*;) and how oft any ſuch perſons to be nominated ſhall contravene, it ſhall be ſtill lawful, and in the power of the ſaid archbiſhop, to elect, nominate and appoint new patrons, truſtees, and ſide-commiſſaries, (obſerving always my ſaid will, appointment, orders, rules and conſtitutions). And becauſe the keeping and preſervation of the writs and evidents of the lands and others mortified, is of great moment and import, and, ſhould the ſame be loſt, or otherways abſtracted, were to render my ſucceſſion miſerable, and failing ſucceſſion, clearly ſuppreſs and eradicate this my mortification and foundation; therefore, and to obviate theſe inconveniencies ſo far as is poſſible, I have drawn and ſubſcribed three inventories of my ſaid writs and evidents, whereof I keep one, with the writs, myſelf, and have delivered another to G. D. of S. writer to his Majeſty's ſignet, and a third to —— M. of B. as my faithful friends, in whom I repoſe entire truſt and confidence; and the laſt two are incloſed and ſealed in

two papers. And in caſe of my deceaſe, having ſucceſſion of my own body, I appoint and ordain my charter-cheſt, and writs and inventory therein, to be kept by the ſaid G. D. of S. for the uſe of my children, and to be delivered to them, and their tutors and curators, upon ſubſcribed inventory, bearing the receipt thereof; and in that caſe, I recommend to my ſaid two friends, to deliver the other two inventories to the perſons following, *viz.* the one to the ſaid archbiſhop of G. and the other to the moderator and brethren of the ſaid preſbytery of P. that, failing afterwards of my ſaid ſucceſſion, they may know the progreſs, and where to find them. Moreover, I, conſidering that the college of juſtice is always made up and appointed of eminent judges and lawyers; and as they are of generous minds, ſo are ever tender of mortifications, and pious works of that nature, and ready and cheerful to maintain the right and privilege thereof; therefore, I will and appoint the ſum of fifteen pounds Scots to be paid yearly to the college of juſtice box, and a *Jacobus* of gold, or fifteen pounds money foreſaid, as the value and price thereof, yearly to his Majeſty's advocate; and that upon the firſt ſeſſion day in November yearly, and out of the rents, profits and duties of the ſaid mortified lands, with the pertinents; requeſting them earneſtly, to aſſiſt my pious foundation, and all actions and cauſes that may concern the ſame, and to put the beſt gloſs thereupon, and interprete my ſincere, pure, religious meaning, and Chriſtian intent, in the beſt ſenſe, conſtruction and extenſion, in favours of the poor of the ſaid hoſpital, and other members thereof, that either law, or Lords their *nobile officium* will allow. Moreover, failing of heirs of the ſaid G. C. his body, and alſo of my own body, in this or any future marriage, and of the ſaid A. C. his body, in this or any after-marriage, and of the ſaid A. N. and heirs of his body, as ſaid is, I hereby (now as then, and then as now) mortify, give, grant, diſpone and aſſign to the ſaid moderator, and brethren of the ſaid exerciſe or preſbytery of P. for the uſe and ends foreſaid, (and obſerving the rules, orders, conſtitutions and appointments above-ſpecified, and with and under the reſervations, proviſions and declarations above and after-mentioned), all contracts and rights of wadſets, and grounds thereof, and irredeemable rights and diſpoſitions, charters, infeftments, procuratories, and inſtruments of reſignation, precepts of *clare conſtat*, and other precepts and inſtruments of ſeiſin, appriſings, adjudications, and grounds, and warrants, and diligence, and execution uſed thereon, and all other writs, evidents, rights, titles and ſecurities made and granted to me, my predeceſſors and authors, of and concerning the ſaid lands, tenements, cellars, booths, and others foreſaid, and ſums due by virtue of the ſaid wadſets, adjudications, appriſings, and all action of warrandice, or other action, purſuit, inſtance, and execution whatſoever, competent or that may be competent to me thereupon, with all that has followed, or may follow on the ſame, and ſurrogating them, for the uſes and ends foreſaid, in my full right, vice and place thereof for ever; and admits the generality foreſaid to be as ſufficient, as if each writ above-aſſigned and diſponed were word by word herein inſert and ingroſſed, albeit not ſo done; whereanent diſpenſes for ever: As alſo, I mortify and aſſign to them, all tacks and rights of the teinds parſonage and vicarage of the ſaid lands and others foreſaid,

foresaid, lying outwith the said burgh of E. and all valuations, decreets of plat, and prorogations, and all other right I have, or hereafter I shall happen to acquire, of and concerning the same, and rights of the annuities of the said teinds, together with the mails and duties of the said lands, tenements, and others foresaid, of the first term after my own decease; and failing of succession of the said G. C. his body, and also my own body, in this or any after-marriage, and of the said A. C. his body, and of the said A. N. and heirs of his body, as said is, and thereafter in all time coming, (with and under the reservations, provisions and conditions above and after-specified, and no otherwise). And, lastly, Notwithstanding of the foresaid tailzie, substitution and mortification, resignation and infeftment to follow thereupon, yet it shall be always leisome and lawful to me, and in my power, at any time in my lifetime, *etiam in lecto ægritudinis, et in articulo mortis*, and that of and by myself alone, and without advice or consent of my said children or succession, or of their tutors and curators, albeit minors for the time, or of the said moderator and brethren of the exercise or presbytery of P. or of the poor and other members of the said hospital, or of the said overseers, or of any other person or persons, religious or laick, who may seem to be concerned, or yet of any representing them, to alter, innovate and change the said tailzie, substitution, destination and mortification, in all or any point thereof, as I please; and likewise, to make new tailzies, substitutions and destinations, by a paper apart under my own hand, subscribed before famous witnesses, in favours of any person or persons I please, and in whose favours the said other persons shall be obliged to denude, *omni habili modo*; and in like manner, to sell, annalzie and dispone, either in wadset or irredeemably, the said lands, tenements, cellars, booths, vaults, teinds, and others above-mentioned, and to contract debts thereupon, and to grant rights of liferents, annuities, and others, forth thereof, and that to any person or persons I please, and as to me shall seem expedient; and to make, grant, subscribe and deliver dispositions, charters, heritable bonds, and all other rights and securities requisite and necessary for that effect, containing procuratories of resignation, and all other clauses needful, and that sicklike, in the same manner, and as freely in all respects, and to all intents and purposes, as if this present right had never been made, granted or subscribed, or any resignation or infeftment thereupon expede and taken. And upon all which reservations, provisions, conditions, limitations and restrictions, and power and faculty foresaid, reserved to myself, as said is, these presents are granted and accepted, and resignation and infeftment to follow thereupon, and no otherways, acts, instruments and documents, one or more, as need beis, in the premisses to ask and raise, and generally all and sundry other things thereanent to do, use and exerce, sicklike, and as freely in all respects, as I might do therein myself, if I were personally present; promising to hold firm and stable, *&c.* Consenting these presents be registered, *&c.* Subscribed at E. the 3d day of March 1688 years, before these witnesses,

Nota, According to this, and other rights made of the burgage-lands, resignation and infestment followed, wherein all the tailzie and mortification were insert *per expressum*.

LETTERS

LETTERS *of* SLANES.

BE it known to all men, by theſe preſent letters, me G. D. relict of the deceaſed W. B. indweller in ———, with the ſpecial advice and conſent of A. B. and C. B. brothers-german to the ſaid W. B. and of D. B. eldeſt lawful ſon to the ſaid defunct, and all of us, with one conſent and aſſent, and taking burden on us for the remanent children, kindred and relations of the ſaid deceaſed W. B. Foraſmuchas we, conſidering that the ſaid deceaſed W. B. and A. P. indweller in ———, having met accidentally in the town of ——— upon the —— day of ——— laſt bypaſt; and, as they were of good friendſhip formerly, and old acquaintance, ſo both of them were deſirous to entertain fellowſhip, in participating in ſuch liquors as the place afforded: But, having ſhared in more than was convenient, and, in effect, became drunk, ſo, by their exceſs, they fell at words, from thence to blows, and, in fine, the ſaid W. B. was killed by the ſaid A. P. without any premeditate malice, or fore-thought felony; yea, for ſeveral years in great amity, entire converſe and correſpondence: And the ſaid A. P. having now given great evidence of his remorſe, and likeways an aſſythment, according to his abilities, and better ſupport of the defunct's children; and conſidering likeways, that his life, were it obtained by the courſe of juſtice, would prove of no avail to us: Therefore we, by theſe preſents, for ourſelves, and taking burden, as ſaid is, forgive, paſs over, and for ever forget, and in oblivion inter, all rancour, malice, revenge, prejudice, grudge and reſentment, that we, or thoſe for whom we take burden, in manner foreſaid, have, or may conceive againſt the ſaid A. P. or his poſterity, for the crime foreſaid; and hereby exoners and diſcharges him of all action, civil or criminal, competent thereupon, againſt him or his eſtate and goods, for now and ever; and hereby frankly and freely conſent and beg, and earneſtly intreat his ſacred Majeſty to grant to the ſaid A. P. a full, free and ample remiſſion of the ſaid crime and ſlaughter, and what thereupon may enſue; and to diſpone to him the eſcheat of his own moveable eſtate, in reſpect of the foreſaid aſſythment now given: Conſenting theſe preſents be regiſtered, *&c.* for conſervation, *&c.*

Nota, I have ſeen ſeveral of thoſe ſtyles, both ancient and modern, wherein the relict and friends not only forgive, but likeways remit and pardon the crime; which is wrong, and but a miſtake at the beſt: For, albeit a ſubject will forgive an offence or crime, ſo far as he is concerned, and without any future revenge, yet none can remit and pardon a capital crime but the King's Majeſty; and ſo the remiſſion muſt flow from ſovereignty, the fountain; and all that relict, children or friends can do, is to conſent. And as to the narrative, it may alter, according to the circumſtances.

The END *of the* FIFTH PART.

TO

GEORGE Viſcount of *Tarbat*, Lord *M'Leod* and *Caſtlehaven*, *&c.* Clerk to his Majeſty's Council, Regiſters and Rolls; *George Dallas* of *St. Martins*, Author of the whole Work, whereof this is the *Laſt Part*, wiſheth all Felicity and Happineſs.

My Lord,

THE ſingular parts, and rich endowments with which the great Creator of all things has bleſſed your Lordſhip, are ſo well known, that it were too large a taſk, if not preſumption, in me to conſume time in their enumeration. Your Lordſhip's preferments began early, and continued many years, in ſeveral eminent ſtations, not without interludes; and yet, when your merits and uſe for the publick ſervice, with the grounds and cauſes for which laid aſide, were weighed in the balance of the true intereſt of the crown, your Lordſhip, as to your offices and royal favour, was reſtored and redintegrated: Nor could I, as your relation, and one loaded with your favours, omit your Lordſhip in my works, but judged it my duty to dedicate this of the Chancery to your Lordſhip, as not improper; which may be worthy of your conſideration, when your more ſerious affairs will allow ſome diverſion. And your acceptance of this token will much oblige,

My Lord,

Your Lordſhip's affectionate Couſin,

and moſt humble ſervant,

GEO. DALLAS.

THE SIXTH OR LAST PART OF The Author's SYSTEM of STYLES, CONSISTS OF

The brieve of mortancestry or succession; the service whereof, led and deduced before the macers, as sheriffs, stewarts, baillies of regality, provosts and bailies of royal burghs in that part of the shires, stewartries, regalities, or burghs of ——— (where the lands wherein the apparent heir is to be served ly); and such are mostly served before the macers, both to prevent great charges, multiplicity of services before the respective ordinary judges; and likeways, that in case any debates arise the time of the leading, the same may be conciliated and cleared by lawyers; and if not so, then the Lords of session (by whose deliverance the commission to the macers, as judges in that part, and under the quarter seal, is granted) will, upon application, allow one or two of their own number as assessors to the macers; and should any difficulty yet remain, upon the assessors their report, the Lords, by interlocutor, will decide the matter, and so the service takes effect, or the diet deserted accordingly. The whole process and method of proceeding, ab initio ad finem, *is here set down, and how the person served is to be infeft, however, and of whomsoever the lands hold. Several questions anent services (as to the point of succession) started and solved; and the way and manner proposed, and likeways set down, with some discriminations and references to the former full style. Ye have also set down the service of the brieve of division, and of the brieve of terce; with a short discourse anent the brieves of tutor-in-law, idiotry, furiosity, fatuity (wherein is taken along st dumb and deaf) lining, perambulation,* &c. *but the form of process of these not set down, and the reasons rendered; and shews what brieves retoured, and what not. And it concludes with presentations under the quarter seal, of all sorts, summons of error, and tutory-dative, and as to reprobators.*

And first, I begin with a BILL *to the Lords of Session, for a Commission to the four Macers, or any two of them, as Sheriffs in that Part of the Sheriffdom of* ———, &c.

MY Lords of council and session, unto your Lordships humbly sheweth, Sir G. M. of T. Knight Baronet, eldest lawful son and apparent heir-male to the deceased Sir J. M. of T. Knight Baronet my father, procreate betwixt

betwixt him and D. M. E. his ſpouſe, That where I am to raiſe brieves forth of our Sovereign Lord's chancellary, for ſerving of me neareſt and lawful heir-male to my ſaid deceaſed father, procreate betwixt him and his ſaid ſpouſe, not only in general, but likeways in ſpecial, in all lands, heritages, tenements, annualrents, and others, wherein he died laſt veſt and ſeiſed, as of fee, at the faith and peace of our Sovereign Lord, lying within the ſheriffdom of ———, regalities of ———, and burgh of ——— ; and in reſpect divers ſervices were chargeable, and that ſundry queſtions, debates and controverſies may ariſe the time of the leading and deducing of the ſaid ſervice, which can hardly be diſcuſſed before the ſheriffs of the ſaid ſhires, baillies of regalities, or their deputes, or provoſt and baillies of the ſaid burghs, either upon the ground of the lands and others wherein I am to be ſerved, or yet within the head-burghs of the ſaid ſheriffdoms, or regalities, *&c.* within the which the ſame lies: Therefore, neceſſary it is for me to have my ſaid ſervice led and deduced before the four ordinary macers, before your Lordſhips, or any two of them, conjunctly, as ſheriffs in that part of the ſaid ſheriffdoms of ———, and baillies in that part of the regality of ———, and burgh of ———, and that within the tolbooth or new ſeſſion-houſe of Edinburgh, as place moſt fit and convenient therefor, where all parties having, or pretending to have intereſt, may be heard to oppone and object; and whereuntil, if any doubt, difficulty or queſtion ſhall happen to ariſe, the ſame may be beſt reſolved, by the advice of men of law, and your Lordſhips warrant to the director of the chancellary, and his deputes, to emit and direct forth a commiſſion, under the teſtimony of the great ſeal to them for that effect, in manner under written, containing diſpenſation anent the place and time of vacance, if any ſhall happen to be, in manner after expreſſed. Herefore I beſeech your Lordſhips to grant warrant to the director of his Majeſty's chancellary, and his deputes, to emit and direct forth of the ſaid chancellary a commiſſion under the quarter ſeal, otherways called the teſtimony of the great ſeal, in due and competent form of chancellary, making, conſtituting and ordaining the ſaid four ordinary macers before your Lordſhips, or any two of them, conjunctly, ſheriffs in that part of the ſaid ſheriffdoms of ———, and baillies in that part of the regality of ——— and burghs of ———, giving, granting and committing to them, or any two of them, conjunctly, as ſaid is, his Majeſty's full power and ſpecial command, to ſit within the ſaid tolbooth or new ſeſſion-houſe of Edinburgh, for ſerving of the ſaid brieves; and for that effect, to receive, open and cauſe the ſaid brieves be duly proclaimed, court or courts, one or more, to begin, affirm and fence, and, as oft as need beis, the ſame to continue, clerks, ſerjeants, officers, dempſters, and all other members of court neceſſary, to make, create, conſtitute and ordain, for whom they ſhall be anſwerable, and a ſufficient number of perſons of inqueſt, moſt worthy, leaſt ſuſpected, and who beſt know the verity of the matter, cauſe be ſummoned and compear, to paſs thereupon, each perſon, under the pain of forty pounds Scots; and generally all and ſundry other things requiſite and neceſſary in and anent the premiſſes to do, uſe and exerce, as freely and fully as the ſheriffs of the ſaid ſheriffdom of ———, or

baillies of the ſaid regality of ———, or provoſt or baillies of the ſaid burghs, might have done therein themſelves, had my ſaid ſervice been led and deduced before them; and that your Lordſhips may admit and declare the ſaid tolbooth or new ſeſſion-houſe of Edinburgh, to be as lawful and ſufficient, to the effect foreſaid, as if the ſame were the tolbooth of the head-burghs of the ſaid ſheriffdoms of ———, or regalities of ———, and burghs of ———, and to diſpenſe therewith, and likeways with the time of vacance, if any ſhall happen to be, the time of the leading and deducing of the ſaid ſervice, for ever; and to declare the ſame to be as ſufficient as if done in lawful time of ſeſſion. According to juſtice, and your Lordſhips anſwer.

This bill is given in to the bill chamber and written upon, by the clerk of the bills, or one of his ſervants, and thereafter paſſed in courſe by the Lord Ordinary on the bills, and ſubſcribed by the clerk thereof, and thereafter given to the director of the chancellary, or his deputes, who thereupon, and in the terms of the bill, write out a commiſſion under the teſtimony of the great ſeal, and is ſubſcribed by the director, or his depute, on the back, and ſealed; and the date of the bill is always the date of the commiſſion, as the warrant thereof; and concludes with, *Ex deliberatione Dominorum concilii et ſeſſionis.*

The reaſon why directed to the four ordinary macers, or any two of them, is to guard againſt the ſickneſs or abſence of any of them, or waiting upon the Lords; otherways the diet might come to deſert.

Nota, The commiſſion, thus expede, the party calls two of the macers; and they, after they have read the ſame, go to one of the Lords and one of the clerks of ſeſſion, and there accept of the ſaid commiſſion, and the Lord takes their oaths *de fideli adminiſtratione*. Whereupon the party takes inſtruments in the clerk's hands; and the clerk extends a ſhort inſtrument thereupon, written on the back of the commiſſion; and the Lord, as well as the clerk, ſubſcribes the ſame.

The macers, or any two of them, thus conſtitute ſheriffs, *&c.* the party raiſes two brieves out of the chancellary, directed to the ſaid four macers, or any two of them, as ſheriffs and baillies of regality, *&c.* by commiſſion, and the brieves are ſubſcribed by the director, or his depute. And that ye may know how all the points of the brieve are anſwered *in terminis*, I might have ſet down the brieve here, but unneceſſary, being of a conſtant ſtyle, and with the alteration only of the perſon's name and propinquity in blood to the defunct, and that it is now directed to the four macers, or any two of them, conjunctly, as ſheriffs and baillies of regalities and burghs in that part, by commiſſion, *ut ſupra*, and not to the ſheriff of the ſhire, or other judge, within whoſe juriſdiction the lands ly; and by the ſervice, ye will know the points of the brieve, and how anſwered.

The next ſtep is, the macers accepting, go with the party, or procurator, to the parliament-houſe, about eleven of the clock in the forenoon, and the commiſſion (after the macers ſit down) is read publickly, together with the acceptance, and inſtrument on the back thereof; and thereafter the macers nominate and create the clerk, officer and dempſter of the firſt court, and take their oaths *de fideli adminiſtratione*; after which, the court is fenced, in name and authority of his Majeſty, and of the judges, by commiſſion, preſent, and thereafter the brieve is produced and read; after which the clerk (who muſt be a writer to the ſignet, as well as notary) officer and dempſter of the ſecond court, are alſo nominated and choſen by the judges, and inſtruments taken in the hands of the clerk of the ſecond court, upon the inſtitution and creation of the firſt court, and members thereof; and likewiſe, inſtruments taken upon the inſtitution and creation of the ſecond court, and members thereof, in the hands of the clerk of the firſt court, and the ſaid inſtruments accordingly extended by the clerks of the reſpective courts.

Thereafter, the judges, by commiſſion, ſubſcribe a precept, or warrant and commiſſion, which the clerk of the ſecond court draws, to the perſon that is created officer for the ſecond court,

court, for executing of the brieves, to a ſpecifick day, then judicially prefixed, for leading of the ſervice; the method and form whereof, with his inſtructions, acts of court, inſtruments, claim and ſervice, follows; and in order, and firſt, the acts of the firſt and ſecond court.

ACTS *of the firſt Court.*

At Edinburgh, the —— day of —— —— years.

THE which day, compeared perſonally, within the tolbooth or new ſeſſion-houſe of Edinburgh, A. H. and W. S. two of the four ordinary macers before the Lords of council and ſeſſion, as ſheriffs in that part of the ſheriffdoms of ——, and baillies in that part of the regality of ——, and burghs of ——, ſpecially conſtitute by his Majeſty's commiſſion under the quarter ſeal, directed to them, or any two of them, as ſheriffs, *&c.* in that part foreſaid, by deliverance of the ſaid Lords, dated the —— day of —— inſtant, containing diſpenſation anent the place, and time of vacance, to the effect after ſpecified, if any were; and alſo compeared Sir G. M. eldeſt lawful ſon to the deceaſed Sir J. M. of T. and produced the ſaid commiſſion, directed as ſaid is, being for ſerving of him neareſt and lawful heir-male, not only in general, but alſo in ſpecial to the ſaid deceaſed Sir J. M. his father, procreate betwixt him and D. M. E. his ſpouſe, in all lands, heritages and annualrents, with the pertinents, wherein he died laſt veſt and ſeiſed, as of fee, at faith and peace, and bearing the ſaid two macers their acceptance of the ſaid office on the back, and their making oath *de fideli adminiſtratione*, and deſired them to proceed in the adminiſtration of their ſaid offices, conform to the ſaid commiſſion and brieves then alſo produced, directed to them as ſheriffs and baillies of regality and burghs, in that part foreſaid; and accordingly, and after reading and peruſal of all, the ſaid two macers elected and choſed H. P. notary-publick, in clerk, J. S. indweller in Edinburgh, in officer, and J. A. indweller there, in dempſter, for the firſt court of the ſaid ſervice, who being ſolemnly ſworn, made faith *de fideli adminiſtratione*, and that they ſhould execute their reſpective offices faithfully, ay and while they were legally prohibited and diſcharged, and cauſed the ſaid officer fence the ſaid firſt court, and thereafter elected and choſe M. J. B. notary-publick, in clerk, J. A. one of the commiſſary-officers of Edinburgh, in officer, and J. M. indweller there, in dempſter, for the ſecond court of the ſaid ſervice, who being alſo ſolemnly ſworn, made faith *de fideli adminiſtratione*, as ſaid is; and thereafter, the ſaid judges ordained the ſaid J. A. officer of the ſecond court, lawfully to proclaim the ſaid brieves at the market-croſſes of ——, head burgh of the ſheriffdoms of ——, regalities of ——, and burghs of ——, within which the lands and others wherein the ſaid Sir G. M. is to be ſerved as heir-male in ſpecial to his ſaid father ly, and that upon one of the ordinary market-days of the ſaid head burghs, and in time of open market, and in preſence of famous witneſſes, to be ſerved, the ſaid general and ſpecial ſervices, within the ſaid tolbooth of Edinburgh, the —— day of —— next, in the hour of cauſe, by virtue of the ſaid diſpenſation contained in the ſaid commiſſion, and to obſerve the haill tenor of the act of parliament made anent ſerving of brieves, and precept granted by the ſaid judges

to him thereanent, of this date, in all points; and upon the haill premiſſes, inſtruments were taken as to the ſaid firſt court, in the hands of the ſaid M. J. B. and as to the ſaid ſecond court, in the hands of the ſaid H. P. (*Sic ſubſcribitur*) A. H. and W. S.

INSTRUMENT *of the firſt Court.*

At Edinburgh, the —— day of —— —— years.

THE which day, in preſence of me notary-publick under ſubſcribing, and clerk of the ſecond court, compeared perſonally, Sir G. M. eldeſt lawful ſon to Sir J. M. of T. and apparent heir-male to him, and paſſed to the perſonal preſence of A. H. and W. S. two of the four ordinary macers before the Lords of council and ſeſſion, as ſheriffs in that part of the ſheriffdoms of ——, and baillies in that part of the regality of ——, and burghs of ——, ſpecially conſtitute by his Majeſty's commiſſion under written, and preſented to them a commiſſion under his Majeſty's quarter ſeal, by deliverance of the ſaid Lords of council and ſeſſion, dated the —— day of —— inſtant, making and conſtituting the ſaid four ordinary macers, or any two of them, conjunctly, ſheriffs in that part of the ſaid ſheriffdoms of ——, and baillies in that part of the regality of ——, and burghs of ——, with power to compear within the tolbooth of Edinburgh, and there fence, hold, affix and continue courts, one or more, as need beis, for ſerving of the ſaid Sir G. M. eldeſt lawful ſon to the ſaid deceaſed Sir J. M. neareſt and lawful heir-male, not only in general, but in ſpecial, to his ſaid deceaſed father, in all lands, heritages, annualrents and others wherein he died laſt veſt and ſeiſed, as of fee, at faith and peace, and to create clerks, officers, ſerjeants, dempſters, and other members of court needful, for whom they ſhould be anſwerable, and to proſecute the ſaid ſervice, until the final end thereof, as the ſaid commiſſion, bearing the ſaid two macers their acceptation on the back thereof, this preſent day, in itſelf more fully is contained: And the ſaid Sir G. M. deſired and required the ſaid A. H. and W. S. to proceed to the due and lawful adminiſtration of their ſaid office, who, in purſuance thereof, and in obedience thereto, and by virtue of the power thereby committed to them, after peruſal of the ſame, paſſed to the ſaid tolbooth or new ſeſſion-houſe of Edinburgh, and there-cauſed read and publiſh their ſaid commiſſion and warrant, with the brieves purchaſed forth of the chancellary, by the ſaid Sir G. M. directed to the ſaid four macers, or any two of them, as ſheriffs in that part *reſpectivè* of the ſaid ſheriffdoms of ——, and baillies in that part of the regalities of ——, and burghs of ——, by commiſſion, as ſaid is, for ſerving of him, not only neareſt and lawful heir-male in general, but alſo in ſpecial to his ſaid father, and thereafter held, fenced and affixed courts in the ſaid ſervice, and elected, nominated, created and chuſed H. P. notary publick, in clerk, J. S. indweller in Edinburgh, in officer, and J. A. indweller there, in dempſter, for the firſt court of the ſaid ſervice, who being ſolemnly ſworn, made faith *de fideli adminiſtratione*, and that they ſhould execute their reſpective offices faithfully, ay and while they were legally prohibited and diſcharged; and the ſaid judges, after fencing of the

firſt

firſt court, ordained J. A. one of the commiſſary-officers of Edinburgh, and in officer of the ſecond court of the ſaid ſervice, lawfully to proclaim the ſaid brieves at the market-croſſes of ——, head burghs of the ſheriffdoms of ——, and regalities of ——, and burghs of ——, within the which, the lands and others wherein the ſaid Sir G. M. is to be ſerved as heir-male in ſpecial to his ſaid father ly, and that upon one of the ordinary market days of the ſaid burghs, and in time of open market, and before famous witneſſes, to be ſerved, the ſaid general and ſpecial ſervices, within the ſaid tolbooth of Edinburgh, or new ſeſſion-houſe thereof, the —— day of —— next to come, in the hour of cauſe, by virtue of the diſpenſation anent the place and time of vacance, if any be, contained in the ſaid commiſſion, and to obſerve and fulfil the haill tenor of the act of parliament made anent ſerving of brieves, in all points: Whereupon, and upon all and ſundry the haill premiſſes, the ſaid Sir G. M. aſked and took inſtruments, one or more, in the hands of me notary-publick under ſubſcribing, and clerk to the ſecond court of the ſaid ſervice. The premiſſes were judicially done within the ſaid tolbooth or new ſeſſion-houſe of Edinburgh, in the outer-houſe thereof, betwixt eleven and twelve of the clock in the forenoon, day, month and year of God foreſaid.

Nota, The clerk of the ſecond court ſubſcribes the ſaid inſtrument.

INSTRUMENT *of the ſecond Court.*

At Edinburgh, the —— day of —— —— years.

THE which day, in preſence of me notary-publick under ſubſcribing, and clerk of the firſt court, compeared perſonally, Sir G. M. eldeſt lawful ſon, and apparent heir-male to Sir J. M. of Γ. and paſſed to the perſonal preſence of A. H. and W. S. two of the four ordinary macers before the Lords of council and ſeſſion, as ſheriffs in that part of the ſheriffdom of ——, and baillies in that part of the regality of ——, and burghs of ——, ſpecially conſtitute by his Majeſty's commiſſion under written, and preſented to them a commiſſion under his Majeſty's quarter ſeal, by deliverance of the ſaid Lords of council and ſeſſion, dated the —— day of —— inſtant, making and conſtituting the ſaid four ordinary macers, or any two of them, conjunctly, ſheriffs and baillies in that part of the ſaid ſheriffdoms, regalities and burghs *reſpectivè*, with power to compear within the tolbooth or new ſeſſion-houſe of Edinburgh, and there fence, hold, affix and continue courts, one or more, as need beis, for ſerving of the ſaid Sir G. M. eldeſt lawful ſon, and apparent heir-male to the ſaid deceaſed Sir J. M. as ſaid is, not only in general, but alſo in ſpecial to his ſaid father, in all lands, heritages, annualrents and others wherein he died laſt veſt and ſeiſed, as of fee, at faith and peace, and to create clerks, officers, ſerjeants, dempſters and other members of court needful, for whom they ſhould be anſwerable, and to proſecute the ſaid ſervice, until the final end thereof, as the ſaid commiſſion, bearing the ſaid two macers their acceptation on the back thereof, this preſent day, in itſelf more fully is contained; and the ſaid Sir G. M. deſired and required the ſaid A. H. and W. S. to proceed to the

the due and lawful adminiſtration of their ſaid offices, who, in purſuance thereof, and in obedience thereto, and by virtue of the power thereby committed to them, after peruſal of the ſame, paſſed to the ſaid tolbooth or new ſeſſion-houſe of Edinburgh, and there cauſed read and publiſh their ſaid commiſſion and warrant, with the brieves purchaſed forth of the chancellary by the ſaid Sir G. M. directed to the ſaid four macers, or any two of them, as ſheriffs and baillies in that part *reſpectivè* of the ſaid ſheriffdoms of ——, and regality of ——, and burghs of ——, by commiſſion, as ſaid is, for ſerving of him, not only neareſt and lawful heir-male in general, but alſo in ſpecial to his ſaid father, and thereafter, held, fenced and affixed courts in the ſaid ſervice, and elected, nominated, created and choſe Mr. J. B. notary-publick, in clerk, J. A. one of the commiſſary officers of Edinburgh, in officer, and J. M. indweller there, in dempſter, for the ſecond court of the ſaid ſervice, who being ſolemnly ſworn, made faith *de fideli adminiſtratione*, and that they ſhould exerce their reſpective offices faithfully, ay and while they be legally prohibited and diſcharged; and the ſaid judges ordained the ſaid J. A. officer of the ſecond court, lawfully to proclaim the ſaid brieves at the market-croſs of ——, head burghs of the ſheriffdoms of ——, and regalities of ——, and burghs of ——, within which the lands and others, wherein the ſaid Sir G. M. is to be ſerved as heir-male in ſpecial to his ſaid father ly, and that upon one of the ordinary market days of the ſaid burghs, and in time of open market, and in preſence of famous witneſſes, to be ſerved, the ſaid general and ſpecial ſervices within the ſaid tolbooth of Edinburgh, or new ſeſſion-houſe thereof, the —— day of —— next to come, in the hour of cauſe, by virtue of the diſpenſation anent the place and time of vacancy, if any be, contained in the ſaid commiſſion, and to obſerve and fulfil the haill tenor of the act of parliament made anent ſerving of brieves, in all points: Whereupon, and upon all and ſundry the haill premiſſes, the ſaid Sir G. M. aſked and took inſtruments, one or more, in the hands of me notary-publick under ſubſcribing, and clerk to the firſt court of the ſaid ſervices. The premiſſes were judicially done within the ſaid tolbooth, or new ſeſſion-houſe of Edinburgh, in the outer-houſe thereof, betwixt the hours of eleven and twelve of the clock in the forenoon, day, month and year of God foreſaid.

Nota, The clerk of the firſt court ſubſcribes the ſaid inſtrument.

PRECEPT *and* COMMISSION *by the Macers, as Judges in that Part, to the Officer.*

WE A. H. and W. S. two of the four ordinary macers before the Lords of council and ſeſſion, and ſheriffs in that part of the ſheriffdoms of ——, and baillies in that part of the regality of ——, and of the burghs of ——, ſpecially conſtitute in the matter, and in the manner after expreſſed: Foraſmuch as his Majeſty, by his commiſſion under the teſtimony of the great ſeal of this kingdom, mentioning that Sir G. M. eldeſt lawful ſon, and apparent heir-male to the deceaſed Sir J. M. of T. knight and baronet, procreate betwixt him and

and D. M. E. his ſpouſe, by his ſupplication to the ſaid Lords, held forth, that he was to raiſe brieves forth of the chancellary, for ſerving himſelf not only heir-male in general, but alſo in ſpecial, to his ſaid deceaſed father, in all lands, heritages, tenements, annualrents and others, with the pertinents thereof, in which he died laſt veſt and ſeiſed, as of fee, at faith and peace; and becauſe the ſaid lands and annualrents, with the pertinents, ly in divers juriſdictions, whereby it were tedious and expenſive to lead divers ſervices before each judge; and likeways, in reſpect ſeveral queſtions might ariſe, which hardly could be diſcuſſed before the ſheriffs of ——, or baillies of the regality of ——, and burghs of ——, ſo that there was a neceſſity to have his Majeſty's commiſſion under the teſtimony of the ſaid great ſeal, in manner, and to the effect under written, in manner more fully ſpecified in the ſaid ſupplication: Therefore, making, conſtituting and ordaining the four ordinary macers before the ſaid Lords of council and ſeſſion, or any two of us, conjunctly, ſheriffs and baillies in that part of the ſaid ſheriffdoms of ——, and regality of ——, burghs of ——, giving, granting and committing to us, or any two of us, conjunctly, his Majeſty's full power and ſpecial warrant, to ſit within the tolbooth or new ſeſſion houſe of Edinburgh, for ſerving the ſaid brieves; and for that effect, to receive, open, and cauſe the ſaid brieves be duly proclaimed, court or courts, one or more, to begin, affirm, affix, and, as oft as need beis, continue clerks, ſerjeants, dempſters, and all other officers and members of court needful to make, create, conſtitute and ordain, for whom we are to be anſwerable, and to ſummon an inqueſt to paſs thereupon, under the pains therein ſpecified, and to do all other things requiſite thereanent; and declared the ſaid tolbooth of Edinburgh, or new ſeſſion houſe thereof, to be as ſufficient, as if done within the tolbooths of the head burghs of the ſaid ſheriffdoms of ——, and regality of ——, and burghs of ——, diſpenſing with the place and time of vacancy; and which commiſſion is dated the —— day of —— inſtant; and which commiſſion was accepted in and upon us: Herefore, we, as ſheriffs and baillies in that part foreſaid, by theſe preſents, make, conſtitute, create and ordain you J. A. one of the commiſſary-officers of Edinburgh, our very lawful and undoubted officer in that part of the ſaid ſheriffdoms of ——, and regality of ——, and burghs of ——, to the effect after ſpecified; with full power and commiſſion to you, to paſs in his Majeſty's name and authority, and ours, to the market-croſs of the head burghs of the ſaid ſheriffdoms, and regality and burghs, upon a lawful market day, and there, betwixt eleven and twelve in the forenoon, in time of open market, and in preſence of famous witneſſes, duly and lawfully read and proclaim, or cauſe the ſame be read and proclaimed by another ſtanding by, the words being always pronounced by you our ſaid officer, to be ſerved within the ſaid tolbooth of Edinburgh, or new ſeſſion-houſe thereof, the —— day of —— next to come, in the hour of cauſe, before us the ſaid macers, or any two of us, conjunctly, as ſheriffs and baillies in that part *reſpectivè*, of the ſaid ſheriffdoms and regality and burghs, by virtue of the commiſſion above ſpecified, and diſpenſation therein contained, and to warn and ſummon all perſons having, or pretending to have intereſt in the ſaid matter, by open proclamation at the ſaid market-croſſes, and other places needful, to compear before us, or any two of us, as ſheriffs and baillies in that part foreſaid, the ſaid day and place, in the hour of cauſe,

cauſe, to hear and ſee the ſaid brieves duly and lawfully ſerved and retoured to our ſaid Sovereign Lord his chancellary, in due and competent form. And for that effect, to hear and ſee courts, one or more, as need beis, fenced, affirmed, holden and conſtituted, if need beis, and the perſons and members of inqueſt received, ſworn, and admitted to paſs thereupon, and the ſaid Sir G. M. his claim ſufficiently inſtructed, and to oppone and object thereagainſt, as accords, and to make intimation and certification to them as effeirs, as ye will anſwer to us thereupon: The which to do, we commit to you our full power, to the effect above ſpecified, by this our precept and warrant, granted for that effect. Given under our hands, and ſubſcribed by us at Edinburgh, and in court, the —— day of —— —— years. (*Sic ſubſcribitur*) A. H. and W. S.

MEMORANDUM *for* J. A. *Officer to the ſecond Court of Sir* G. M. *his Service, as Heir-male in general and ſpecial, to the deceaſed Sir* J. M. *how to execute the Brieves.*

RECEIVE two brieves, which you are to read and proclaim at the market-croſs of ——, head burghs of the ſhires of ——, and of the regality of ——, and burghs of ——, upon a publick market day, and betwixt the hours of eleven and twelve in the forenoon, in preſence of famous witneſſes, who can write and ſubſcribe.

After reading, declare, you proclaim the brieves to the —— day of ——, to be ſerved within the tolbooth, or new ſeſſion-houſe of Edinburgh, the ſaid day, in the hour of cauſe, and that you ſummon all parties having, or pretending to have intereſt, to compear that day and place, in the hour of cauſe, to hear and ſee the claim inſtructed, and the brieves ſerved and retoured, and to object againſt the ſame, with certification, the macers, as judges in that part by commiſſion, will proceed accordingly in the ſervice, and refer the matter to the knowledge of an inqueſt, who will ſerve *affirmativè* accordingly, and appoint the ſame to be retoured to the chancery.

Receive the precept under the macers hands, which is your warrant as officer, and produce it, as well as the brieves, publickly, at the reſpective croſſes.

How ſoon you have done at the croſſes, come yourſelf immediately with the brieves, precept, and this memorandum; but the witneſſes need not come, till four or five days, juſt as the place is of diſtance, before the ſervice, and deliver all to the clerk, that he may have the claim, and what elſe neceſſary, in readineſs, againſt the day of the ſervice.

ACTS *of the ſecond Court.*

At Edinburgh, the —— day of —— —— years.

THE which day, anent the brieves or inqueſt purchaſed and raiſed forth of his Majeſty's chancellary, by Sir G. M. eldeſt ſon, and apparent heir-male to the deceaſed Sir J. M. of T. and directed to the four ordinary macers before

before the Lords of council and ſeſſion, or any two of them, conjunctly, as ſheriffs in that part of the ſheriffdoms of, ——, and baillies in that part of the regality of ——, and burghs of ——, by commiſſion granted to them under the quarter ſeal, of the date the —— day of ——, laſt bypaſt, for ſerving and cognoſcing the ſaid Sir G. M. by one condign inqueſt, as neareſt and lawful heir-male to his ſaid deceaſed father, not only in general, but alſo in ſpecial, in all lands, heritages, annualrents, and others, with the pertinents, wherein his ſaid deceaſed father died laſt veſt and ſeiſed, as of fee, at faith and peace, A. H. and W. S. two of the ſaid four ordinary macers, as judges and ſheriffs, and baillies of regality and burghs in that part foreſaid, of the ſaid ſheriffdoms of ——, and regalities and burghs of ——, ſpecially conſtituted by virtue of the ſaid commiſſion, compeared perſonally, within the new ſeſſion-houſe of Edinburgh, and inner-houſe thereof, and alſo compeared before them, and in their preſence therein, the ſaid Sir G. M. perſonally, and preſented to them the foreſaid commiſſion under the quarter ſeal, containing therein a ſpecial diſpenſation anent the place and time of vacancy, if any were, and accepted by themſelves as judges, together with the foreſaid brieves, directed forth of the chancellary to the ſaid macers, or any two of them, as ſheriffs and baillies in that part foreſaid, by commiſſion, as ſaid is, for ſerving the ſaid Sir G. M. heir-male, not only in general, but alſo in ſpecial, to the ſaid deceaſed Sir J. M. his father, as ſaid is, and executions of the ſame written on the back thereof, ſubſcribed by J. A. one of the commiſſary-officers of Edinburgh, officer of the ſecond court of the ſaid ſervice, and the ſaid officer his precept and warrant for executing and proclaiming the ſaid brieves, under the ſaid judges their hands, and inſtruments taken upon the inſtitution and creation of the members of the firſt and ſecond courts, together alſo with the ſaid Sir G. M. his claim, deſiring that the inqueſt ſhould ſerve and cognoſce him, neareſt and lawful heir-male, not only in general, but alſo in ſpecial to his ſaid deceaſed father, in the lands, annualrents, and others therein contained, and to return his ſaid general and ſpecial ſervice to the chancellary, in due and competent form, under the moſt part of their ſeals, with the ſaid brieves included, as uſe is; and the ſaid judges and ſheriffs, and baillies in that part foreſaid, having received the ſaid commiſſion, brieves and remanent papers aforeſaid, they, after peruſal thereof, cauſed the ſaid J. A. officer of the ſaid ſecond court, fence the ſame, and thereafter cauſed the commiſſion and brieves, with the execution on the back of the ſame, bearing the ſame to be duly and lawfully proclaimed, conform to the ſaid precept given to the ſaid J. A. for that effect, to be publickly read; and finding all done accordingly, they thereafter called for the ſaid officer, and his witneſſes preſent, when the ſaid brieves were proclaimed, anent the truth of the executions; who being ſolemnly and judicially ſworn, deponed, that the ſame was truly and faithfully done, conform thereunto in all points, as they ſhould anſwer to God; whereupon the ſaid Sir G. M. aſked act of court and inſtruments; and thereafter, all parties having, or pretending to have intereſt, being thrice lawfully called, lawful time of day bidden, and none compearing to object, the ſaid Sir G. M. alſo thereupon took inſtruments, and proteſted *contra omnes non comparentes*, and that ſilence might be enjoined to them for the

future, and that his ſaid claim might be read, and the matter therein contained, referred to the knowledge of an inqueſt of perſons moſt worthy, leaſt ſuſpected, and who beſt knew the verity of the matter; which deſire the ſaid judges, and ſheriffs in that part foreſaid, finding to be juſt and reaſonable, admitted of the ſaid Sir G. M. his deſire and proteſtation, and thereafter referred the ſaid matter to the knowledge of the inqueſt following, being all lawfully warned of before to paſs thereupon: They are to ſay,

Sir J. L. of ———
Sir J. M. of ———
Mr. D. H. of ———
J. H. of ———
Sir J. F. of ———
Mr. F. M. of ———
Sir. J. F. of ———
J. H. of ———
Mr. H. D. of ———
W. H. of ———
Sir R. M. of ———
A. M. of ———
J. E. of ———
Mr. J. W. of ———
Mr. J. D. of ———

who being all ſolemnly ſworn, *de fideli adminiſtratione*, incontinent elected and chuſed the ſaid ——, one of their number, in chancellor of the ſaid inqueſt; and thereafter, the ſaid claim being openly and publickly read, with the inſtructions and verifications thereof, and both compared; as alſo, the ſaid inqueſt having taken inſpection of the ſaid commiſſion, acceptation on the back thereof, brieves and executions thereof, precept directed to the officer for executing of the ſame, inſtrument of the inſtitution and creation of the members of the firſt and ſecond court of the ſaid ſervice, and haill proceſs thereof, and finding the ſame all orderly proceeded, and legally done, and the ſaid claim ſufficiently inſtructed, they all in one voice, without variance, by the mouth of their ſaid chancellor, after removing out of court, and re-entering therein again, and after calling of all parties having, or pretending to have intereſt, and none compearing to object in the contrary, ſerved and cognoſced the ſaid Sir G. M. neareſt and lawful heir-male, not only in general, but alſo in ſpecial, to the ſaid Sir J. M. of T. in the lands ——, annualrents, and others contained in the ſaid claim; and ordained, and hereby ordain the ſaid ſervice, with the brieves incloſed, to be returned to the chancellary, under the clerk of court his hand, and moſt part of the ſaid inqueſt their ſeals, as uſe is, in due and competent form; whereupon, and upon all and ſundry the premiſſes, the ſaid Sir G. M. aſked act of court, and inſtruments; and to which verdict of the ſaid inqueſt, and deliverance above written, the ſaid judges interponed, and hereby interpone their authority, and ordain the ſame to be retoured, in manner above ſpecified; whereupon alſo, the ſaid Sir G. M. took inſtruments. (*Sic ſubſcribitur*) A. H. and W. S.

Nota, This act ſhould have been placed before the general and ſpecial claims, and their reſpective verdicts.

CLAIM

CLAIM *of the General Service.*

HOnourable perſons, and good men of inqueſt, I Sir G. M. of T. Knight-Baronet, eldeſt lawful ſon, and apparent heir-male to the deceaſed Sir J. M. of T. Knight-Baronet, my father, procreate betwixt him and D. M. E. his ſpouſe, ſay unto your wiſdoms, That the ſaid deceaſed Sir J. M. my father, died at the faith and peace of our Sovereign Lord, and that I am neareſt and lawful heir-male to the ſaid Sir J. M. procreate betwixt him and his ſaid ſpouſe, my mother, and that I am of lawful age: Herefore, I beſeech your wiſdoms, to ſerve and cognoſce me, as neareſt and lawful heir-male to the ſaid deceaſed Sir J. M. of T. Knight, my father, procreate betwixt him and his ſaid ſpouſe, my mother, and to retour my ſaid general ſervice to the chancellary, under the moſt part of your ſeals, as uſe is, and your wiſdoms anſwer.

The VERDICT *of the* INQUEST *is as follows.*

Apud Edinburgum —— die menſis —— —— anno ——.

THE which day, the haill perſons of inqueſt, who paſſed upon the ſaid ſervice, by the mouth of ———, one of their number, and by them elected, nominated and choſen, in chancellor thereof, ſerves the ſaid Sir G. M. of T. neareſt and lawful heir-male to the ſaid deceaſed Sir J. M. of T. his father, procreate betwixt him and the ſaid D. M. E. his ſpouſe, and that *affirmativè*, conform to the above written claim, and inſtructions thereof, and to be retoured to the chancellary accordingly. (*Sic ſubſcribitur*) Sir J. L. *cancellarius.*

CLAIM *of the ſpecial Service.*

HONOURABLE perſons, and good men of inqueſt, I Sir G. M. of T. Knight Baronet, eldeſt lawful ſon and apparent heir-male to the deceaſed Sir J. M. of T. Knight Baronet, my father, procreate betwixt him and D. M. E. his ſpouſe, ſay unto your wiſdoms, That the ſaid deceaſed Sir J. M. my father, died laſt veſt and ſeiſed, as of fee, in faith and peace, in all and ſundry the lands, baronies, caſtles, towers, fortalices, manor-places, mills, woods, fiſhings, teinds, tenements, and others *reſpectivè*, particularly under written, with the pertinents: *To wit*, In all and haill the lands and baronies of Cogeach (4), with the manor-place, tower, fortalice, mills, fiſhings, as well in freſh as ſalt waters, parts, pendicles, tenants, tenandries, ſervice of free tenants, and all their pertinents, lying within the earldom of R. and ſheriffdom of J. and alſo in all and haill the towns and lands of Culteleod, *&c.* lying within the earldom and ſheriffdom foreſaid; and ſicklike, in all and ſundry the lands of Milnaan, *&c.* lying as ſaid is. And in like manner, in all and haill *(here take in the other lands belonging thereto, and then ſay)* lying within the lordſhip of D. earldom of R. and ſheriffdom foreſaid, and that a ſeiſin to be taken at the manſion of the ſaid town

and lands of Cultelleod, or any part thereof, ſhall ſtand, and be a ſufficient ſeiſin for all and ſundry the foreſaid lands and barony of Cogeach, and lands of Cultelleod, *&c.* and that a ſeiſin at the lands of ——— ſhall ſtand, and be a ſufficient ſeiſin for all and ſundry the foreſaid lands of ——— *(here inſert them, as in the diſpenſation of the charter under the great ſeal, and then ſay)* in all time coming, and in all and ſundry the kirk-lands of ———, with the teind-ſheaves thereof, therein included, and with all and ſundry their parts and pendicles, *&c.* lying, *&c.* and in all and ſundry the iſles, lands, and others under written, *viz.* In all and haill the iſles and lands of Barray, *(here take in the reſt of the lands in that charter, and then ſay)* all lying within the ſheriffdom of J. united, annexed, erected, created and incorporated in a haill and free barony, called the barony of Baray, ordaining the tower, fortalice and manor-place of Baray, called Keiſmull, to be the principal meſſuage of the ſaid barony, and a ſeiſin to be taken in all time coming at the ſaid fortalice of Keiſmull, to ſtand good, and be a ſufficient ſeiſin, for all and ſundry the ſaid lands, iſles, and others particularly and generally above written, now united in the ſaid barony of Baray, notwithſtanding they ly diſcontiguous, in manner at length mentioned in the old infeftments of the ſame; and in all and haill ſix pecks of land, lying within the bounds of the Chanrie of R. and burgh of R. and ſheriffdom foreſaid *(here take in the deſignation and bounding, as in the infeftment.)* And ſicklike, in all and ſundry the lands of Eaſter Aird, *&c.* as alſo, in all and ſundry the lands of Eaſter Tarbat, *&c.* and in all and ſundry the lands of Meikle Tarrel, *&c.* and likeways in all and haill a yearly annualrent of fifty ſhillings Scots money yearly, to be uplifted and taken at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, forth of all and haill the lands of Eaſter Aird, with the pertinents, lying in manner foreſaid; all the fore-named lands, towers, fortalices, mills, woods, fiſhings, and others particularly and immediately above written, with the foreſaid yearly annualrent, lying as ſaid is, are united, erected, created and incorporated in a haill and free barony, called the barony of Meikle Tarrel, ordaining the manor-place of Meikle Tarrel to be the principal meſſuage of the ſaid barony, and a ſeiſin to be taken thereat, or upon any other part of the ſaid lands of Meikle Tarrel, to ſtand good, and be a ſufficient ſeiſin for all and ſundry the ſaid lands of E. A. E. T. and M. T. and yearly annualrent aforeſaid, with their pertinents, notwithſtanding they ly diſcontiguous, in manner at length mentioned in the old infeftments of the ſame; and in all and ſundry the teind-ſheaves, or parſonage-teinds of the ſaid Sir J. M. his ſaid lands of E. A. E. T. and M. T. with all their pertinents, pertaining in property to the ſaid Sir J. M. lying within the pariſh of T. and ſheriffdom of J. foreſaid, and now within the new erected ſheriffdom of R. and in all and haill the lands and ſheallings of D. and B. *&c.* lying in the foreſt of Free-Water, and of old within the ſaid ſheriffdom of J. and now within the ſaid new erected ſheriffdom of R. and in all and ſundry the lands of D. in Strathcharran, *&c.* lying within the barony of Bambreich, by annexation, and ſheriffdom of J. and now within the ſaid ſheriffdom of R. and in all and ſundry the towns, lands, acres, fiſhings, woods, and others after mentioned, *viz.* In all

all and haill thirty-nine acres, with a half acre of land, lying in the fields following, *viz. (here take them in, with the other acres, &c. as in the charter, and then say)* lying within the barony of Kinloſs, regality thereof, and ſheriffdom of E. and F. now Elgin and Nairn; and in all and haill the lands and barony of Pluſcarden, *(here take in the lands, as in the charter, and then say)* all lying in the glen of Pluſcarden, and within the ſheriffdom of E. and F. now Elgin and Nairn foreſaid, with the haill duties, kains, cuſtoms, teinds, caſualties, emoluments, provents, profits and commodities thereof, lately pertaining to T. M. of P. and contained in his infeftments thereof, which are here holden as for expreſſed; and in all and haill the great lodging, tenement and houſes in Elgin, *(here take in the bounding, and then say)* or of whatſoever other limitation, bounding or deſignation the ſame be of, which are alſo holden as for expreſſed; and in all and haill theſe lands called Leapper Lands, *&c.* lying within the territory of the burgh of E. and in all and haill the Old Mills of E. with the privilege of water-leads, ſtanks, dams, inlairs, mill-lands, multures, ſucken, thirle, knaveſhip, ſequels and and pertinents thereof; and in all and haill the lands and houſes of Old Mills, and lands of Levenſhauch, with their pertinents, all lying within the ſheriffdom of E. and F. now Elgin and Nairn foreſaid, with all and ſundry caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, mill-lands, multures, woods, fiſhings, annexes, connexes, dependencies, tenants, tenandries, ſervices of free tenants, advocations, donations, and rights of patronages of kirks, chaplainries, altarages and prebendaries of all and ſundry the lands, barony, and others *reſpectivè* above written, with their pertinents, and with the teind-ſheaves, and other teinds, parſonage and vicarage thereof; and that a ſeiſin to be taken at the manor-place of Pluſcarden, or at the foreſaid tenement or great lodging in E. or upon the ground of any other part of the ſaid lands, towns, and others immediately above written, ſhall ſtand good, and be as ſufficient a ſeiſin for all and ſundry the foreſaid lands, barony, towns, mills, tenement, manor-place, and others particularly above written, with the teinds thereof, as if a particular ſeiſin were taken upon each part or portion of the ſame, notwithſtanding the ſame ly diſcontiguous, which is diſpenſed with, conform to the charter granted to the ſaid Sir J. M. thereupon, under the great ſeal, dated the —— day of —— —— years; and in all and ſundry the lands and barony of Innerteil, comprehending therein, *(here take in the lands and others comprehended)* lying within the ſheriffdom of Fife; and in all and haill the half of the lands of Over and Nether Tyries, *&c.* lying within the regality of Dalkeith, conſtabulary of Kinghorn, and ſheriffdom of Fife foreſaid. And that I the ſaid Sir G. M. of T. Knight Baronet, am eldeſt lawful ſon, and lawful heir-male to the ſaid deceaſed Sir J. M. of T. Knight Baronet, my father, procreate betwixt him and the ſaid D. M. E. his ſpouſe, of all and ſundry the foreſaid towns, lands, baronies, teinds, caſtles, towers, fortalices, manor-places, houſes, biggings, yards, orchards, mills, woods, fiſhings, and others *reſpectivè*, particularly and generally above written, with the pertinents; and that I am of lawful and perfect age; and that all and haill the foreſaid lands and barony of Cogeach, *&c.* lying as ſaid is, are now worth by year

year the ſum of eight merks uſual Scots money, and were worth, in time of peace, the ſum of four merks money foreſaid; and that all and ſundry the foreſaid towns and lands of Cultelleod, *&c.* lying as ſaid is, are now worth by year, the ſum of ſeven merks money foreſaid, and were worth, in time of peace, the ſum of three merks ſix ſhillings eight pennies money above written; and that all and ſundry the foreſaid lands of Mulnaan, *&c.* lying as ſaid is, and the ſaid kirk-lands of ———, lying in manner foreſaid, are now worth by year, the ſum of five merks money foreſaid, and were worth, in time of peace, the ſum of two merks ſix ſhillings eight pennies money above written; and that all and haill the foreſaid town and lands of Ardavel, extending to an half davoch of land, are now yearly worth the ſum of three pounds nine ſhillings four pennies money foreſaid, twelve bolls of bear and meal, ſix bolls of oats, two marts, ſix poultry, and were ſo much worth in time of peace; and that all and haill the foreſaid town and lands of Ulladel, extending to another half davoch of lands, as ſaid is, with their houſes, biggings, *&c.* (*which muſt be taken in*) lying as ſaid is, are now worth by year the ſum of three pounds ſixteen ſhillings money foreſaid, and three poultry, and were worth ſo much in time of peace; and that all and haill the foreſaid town and lands of Inchveandie are now worth by year the ſum of three pounds eight ſhillings money foreſaid, and four hens, and were ſo much worth in time of peace; and that the foreſaid town and lands of Auchterneed are now worth by year the ſum of ſeven pounds nine ſhillings four pennies money foreſaid, four mutton and nine hens, and were ſo much worth in time of peace; and that all and haill the foreſaid mill, commonly called Tympane-Mill, with the mill-lands, multures, ſequels and knaveſhips thereof, lying as ſaid is, are now worth yearly a chalder and two bolls bear, and were ſo much worth in time of peace; and that all and ſundry the foreſaid kirk-lands of Kinnettes, with the teind-ſheaves thereof therein included, and with all and ſundry their parts, pendicles, *&c.* (*which take in, as above*) lying as ſaid is, are now worth by year ſeven merks money foreſaid; and for augmentation of the rental thereof, the fifth penny, extending to the ſum of eighteen ſhillings eight pennies money foreſaid, and in the haill, in old farm and augmentation, to the ſum of eight merks five ſhillings and four pennies money above written, and were ſo much worth in time of peace; and that all and ſundry the foreſaid lands of Inchrorie, with the mill thereof, with the foreſaid ſhealling, and place thereof, called the Garbet, *&c.* and lands of Ardmore, mill, multures, ſequels, and pertinents thereof, lying as ſaid is, are now worth by year the ſum of ſix merks money foreſaid, and were worth in time of peace three merks money foreſaid; and that all and haill the foreſaid bogs of Dingwall, called ———, and containing therein, as ſaid is, are now worth the ſum of ſix pounds money foreſaid yearly, and thirteen ſhillings in augmentation of the rental thereof, and were ſo much worth in time of peace; and that all and ſundry the foreſaid lands, iſles, and others particularly and generally above mentioned, pertaining to the ſaid barony of Barray, united, annexed, created and incorporated, in manner above written, with their univerſal pertinents, lying as ſaid is, are now worth by year the ſum of forty pounds money foreſaid, and were ſo much worth in time of peace; and that each one of the foreſaid ſix pecks of land in Chanrie, lying and bounded

bounded as ſaid is, is now worth by year a boll of ſufficient farm-victual, and four ſhillings two pennies money foreſaid of old farm, and twelve pennies money foreſaid, in augmentation of the rental of each peck of the ſaid ſix pecks, and were ſo much worth intime of peace; and that the foreſaid fifth part of land of Broomhill, with the ſaid teinds therein included, with the pertinents, is now worth by year ſix pounds money foreſaid, and was ſo much worth in time of peace; and that all and ſundry the foreſaid lands of E. A. with houſes, biggings, *&c.* lying as ſaid is, are now worth by year the ſum of thirteen pounds ſix ſhillings eight pennies money foreſaid, and were worth, in time of peace, the ſum of three pounds ſix ſhillings eight pennies money foreſaid; and that all and ſundry the foreſaid lands of Eaſter Tarbat, with the tower, fortalice, *ut ſupra*, are now worth by year the ſum of eleven pounds nineteen ſhillings eight pennies money foreſaid, a reek hen, or four pennies for the price thereof, and four pounds for the ſuffrages and prayers to be made for the King and his ſucceſſors, and were ſo much worth in time of peace; and that all and ſundry the foreſaid lands of Meikle Tarrel, with the manor-place, *&c. ut ſupra*, together with the foreſaid yearly annualrent of fifty ſhillings money foreſaid, yearly, to be uplifted forth of the ſaid lands of E. A. in manner foreſaid, are now worth by year the ſum of twenty-four merks money foreſaid, as the taxed and modified ward-duty for the ſaid lands of Meikle Tarrel, and annualrent above written, with the pertinents, during the time of the ward and non-entry, the like ſum for the relief, together with the ſum of one hundred pounds money foreſaid, for the marriage of the heir, conform to the old infeftments of the ſaid lands, and that the ſame were worth in time of peace the ſum of fifty-three ſhillings four pennies money foreſaid; and that all and ſundry the foreſaid teind-ſheaves, or parſonage-teinds of the ſaid lands of Eaſter Aird, Tarbat and Meikle Tarrel, with all their pertinents, are now worth by year one penny money foreſaid, and twenty bolls victual due to the miniſters of Tarbat yearly, as a part of their ſtipend forth of the ſaid teinds, and were ſo much worth in time of peace; and that all and haill the foreſaid lands, and the ſheallings of D. and B. with their parts, pendicles, ſhealls and ſetting-places, and pertinents foreſaid, are now worth by year a cuſtom mart, or twenty ſhillings money foreſaid therefor, in the option of the payer, and the ſum of three ſhillings four pennies money foreſaid, in augmentation of the rental thereof, extending the haill to the ſum of twenty-three ſhillings four pennies money foreſaid, and that they were ſo much worth in time of peace; and that all and ſundry the foreſaid lands of Donylairn in Strathcharran, with houſes, biggings, yards, *&c.* are now worth by year two pounds money foreſaid, and two hare-hounds, and were ſo much worth in time of peace; and that all and ſundry the foreſaid lands, acres, fiſhings and others, lying within the foreſaid lordſhip of Kinloſs, are now worth by year the particular duties under written, in manner as is after divided, *viz.* (*here I omit the extent, ſince there are many acres and particular parcels of ground, and each of them their proper and diſtinct feu-duties; and in feus, the old and new extent being the ſame, there was no neceſſity for it; only the victual, as well as cuſtoms, are converted to low rates,* in optione ſolventis; *which muſt be the rule of the chancellary in the* capiendo ſecuritatem,

curitatem, *as has been formerly observed in several signatures insert; and those that are clerks to services of that kind, would advert thereto, lest, by omitting the conversion, the heir served be charged with the* ipsa corpora *of the bolls and customs, and oblige him to make application to the treasury for redress of the error, being great, not only by reason of the simple bolls and customs, but also of the duplication*) and that all and haill the foresaid lands and barony of P. with the castle, *&c.* comprehending the remanent towns and lands *respectivè* particularly above written, belonging thereto, are now worth by year the sum of one hundred and twenty pounds money foresaid, and were so much worth in time of peace; (*Here are other lands insert, bearing the respective feu-duties, as the present extent, and then follows*) and that the foresaid lands were so much worth in time of peace; and that the foresaid great tenement and lodging in Elgin, is now worth by year the sum of three shillings four pennies money foresaid, and were so much worth in time of peace; and that all and sundry the foresaid lands and barony of Innerteil, comprehending the lands and others particularly above written, are now worth the sum of ——— yearly, and were worth in time of peace the sum of ———; and that the foresaid lands of Over and Nether Tyries, with the pertinents, are now worth by year ——— wheat, and ——— money, as the just and proportional part of twenty bolls wheat, of King David's measure, and four pounds money foresaid, effeiring to the said half lands of Over and Nether Tyries, which is the duty payable for the lands of the Seafield, and half lands of Over and Nether Tyries, conform to the old infeftments thereof, and were so much worth in time of peace; and that the foresaid lands and barony of Cogeach, the said towns and lands of Cultelleod and G. the foresaid lands of M. with the said mill of F. and the said lands of K. of F. and lands of B. with all and sundry their parts, pendicles and pertinents, particularly and generally above written, lying as said is, were sometime holden in chief of the deceased C. E. of S. and L. K. *&c.* thereafter of G. E. of S. his brother, and K. E. of S. his son, and are now holden immediately in chief of O. L. P. and his successors, during the forfeiture of the said K. E. of S. in free-blench fee and heritage, for yearly payment of ——— at the terms, and in manner mentioned in the old infeftments of the said lands; and that all and haill the foresaid lands of A. W. J. O. T. with their parts, pendicles and pertinents particularly and generally above specified, were sometime holden in chief of the said deceased C. E. of S. thereafter of the said deceased G. E. of S. and K. E. of S. and are now holden immediately in chief of the said L. P. and his successors, during the forfeiture of the said K. E. of S. in feu-farm, fee and heritage, for yearly payment to them, or to the treasurer and under-receivers, for their relief of the feu-duties under written, *viz.* (*here the respective feu-duties, both victual, money and customs, were insert, but no conversion, and then follows*) which feu-duties are payable, in manner following, *viz.* The foresaid money at the terms of Whitsunday and Martinmas, used and wont, by equal portions, and the foresaid victual betwixt the feast of Yule and Candlemas, and the foresaid mutton and poultry at the terms of payment used and wont, and doubling the foresaid feu-farm at the entry of the heir;

heir; and alſo paying and fulfilling all the other duties, conditions and proviſions *(if any be)* contained in the old infeftments of the ſaid lands, which are here holden as for expreſſed; and that the foreſaid kirk-lands, with the teinds and pertinents thereof, were ſometime holden of M. G. M. younger, chancellor of Roſs, and thereafter of the late king, by the abolition of biſhops, deans, chancellors, and other dignities, and are now holden of the ſaid L. P. and his ſucceſſors, in feu-farm, fee and heritage, for yearly payment of the ſum of —— money foreſaid of old farm, and for the augmentation of the rental thereof, extending to the fifth penny, the ſum of —— money foreſaid, extending in the haill, in old farm and augmentation, to the ſum of —— money above written, at two terms in the year, Whitſunday and Martinmas in winter, by equal portions, and alſo doubling the foreſaid ſums the firſt year of the entry of the heir to the foreſaid lands, and teinds thereof; and that all and ſundry the foreſaid lands of J. and mill thereof, mill-lands, multures and ſequels of the ſame, and all and haill the foreſaid lands of D. and ſhealling thereof, called the G. and lands of A. with the mill, mill-lands, foreſts, woods, and pertinents thereof, were ſometime holden in chief of the ſaid late King, and his predeceſſors, Kings of Scotland, and are now holden immediately in chief of the ſaid L. P. and his ſucceſſors, by ſervice of ward and relief, for the rights and ſervices uſed and wont, to be paid forth of the ſaid lands and others foreſaid; and that the foreſaid lands and bogs of D. bounded and lying as ſaid is, are holden immediately in chief of the provoſt, baillies, council and community of the burgh of D. and their ſucceſſors, in feu-farm, for yearly payment to them, or their treaſurer for the time, of the ſum of —— money foreſaid, at the feaſt of Whitſunday, in name of feu-farm; and ſicklike, for yearly payment, at the ſaid term of Whitſunday, of the ſum of —— money foreſaid, in augmentation of the rental of the ſaid lands, bogs, and others foreſaid, and doubling the foreſaid feu-duty the firſt year of the entry of each heir to the ſaid lands and others foreſaid, as uſe is of feu-farm; and that all and ſundry the foreſaid lands, iſles, baronies, and others particularly and generally above mentioned, pertaining to the ſaid barony of B. with their univerſal pertinents above written, united, annexed and incorporated in manner foreſaid, were ſome time holden in chief of the ſaid late king and his ſucceſſors, and are now holden immediately of the ſaid L. P. and his ſucceſſors in feu-farm and heritage, for yearly payment of —— money foreſaid, at two terms in the year, Whitſunday and Martinmas, by equal portions, in name of feu-farm, and doubling the ſaid feu-duty the firſt year of the entry of each heir to the ſaid lands and barony of B. with the pertinents, as uſe is of feu-farm allenarly; and that the foreſaid ſix pecks of land of the lands of C. and R. and the ſaid fifth part of the ſaid lands of B. with the teinds therein included, were ſome time holden in chief of the ſaid deceaſed G. E. of S. and thereafter of the ſaid K. E. of S. his ſon, and are now holden immediately in chief of the ſaid L. P. and his ſucceſſors during the forfeiture of the ſaid K. E. of S. in feu-farm, fee and heritage, for payment yearly of the feu-duties and others under-written, *viz.* for each one of the ſaid pecks of land, one boll of ſufficient victual, to be delivered within the

ſaid Chanrie of Roſs, or burgh of R. (*here the meaſure, terms, old farm, and augmentation thereof, were inſert, and doubling both at the entry of each heir, and then follows*) and providing and ſuſtaining according to the proportion of the ſaid lands, horſes and ſervants, for carrying to the ſaid ſuperior, wine, ſalt and fiſh, for ſerving of the caſtle of the C. of R. from the ſea-ſhore of the ſea of R. or burgh of R. to the caſtle, and for carrying of the barrels of ſalmon and fiſh to merchants, from the ſaid caſtle to the ſaid ſea-ſhore, and for carrying of the ſaid ſuperior his dry malt, oats, and ſeed growing on his mains, and grains within the bounds of the ſea of R. to the mills of R. and A. and from thence to the caſtle of C. and for carrying yearly of the proper farms, with others of the ſaid ſuperiors victual, which he ſhall happen to ſell forth of his own yards within the C. of R. to the ſaid ſea-ſhore of C. or R. and for providing and furniſhing of ſervants, *pro rata*, for carrying in of the ſaid ſuperior his fewel from his ſtacks in the outter cloſe of the ſaid caſtle, to the fewel-houſes thereof within the inner cloſe of the ſaid caſtle, and for dighting and ſweeping of the ſaid fewel-houſe as oft as need beis, whenever they ſhall be required thereto; and for ſerving of the ſaid ſuperior in their proper perſons, in his oaſtings and courts, as the reſt of the tenants of the biſhoprick of Roſs ſerve, and alſo paying and fulfilling all other duties, conditions, rights and ſervices, if any be, contained in the old infeftments of the ſaid lands and others foreſaid; and for the ſaid fifth part of the B. with the teinds thereof included, and pertinents of the ſame, the ſum of —— in name of feu-farm, at two terms in the year, Whitſunday and Martinmas, by equal portions, and doubling the ſaid feu-farm the firſt year of the entry of each heir to the ſaid fifth part of land, as uſe is of feu-farm allenarly; and that all and ſundry the foreſaid lands of Eaſter Aird, with houſes, biggings, *&c.* (*as in the infeftment*) were ſome time holden in chief of the ſaid late king, and are now holden immediately in chief of the ſaid L. P. and his ſucceſſors in fee and heritage, for ſervice of ward and relief; and that the foreſaid lands of Eaſter Tarbat, with the tower, fortalice, and pertinents thereof above-ſpecified, were ſome time holden in chief of the ſaid late king, and are now holden immediately of the ſaid L. P. and his ſucceſſors in feu-farm and heritage, for yearly payment of —— money foreſaid, at two terms in the year, Whitſunday and Martinmas, by equal portions, with a reek-hen, or four pennies as the price thereof, at the ſaid terms, in name of feu-farm; and for payment yearly to the chaplain of the chaplainry of the bleſſed Virgin Mary of B. the ſum of four pounds money foreſaid, for the ſuffrages and prayers daily to be celebrated for the king and his ſucceſſors, at the terms of payment uſed and wont, and doubling the foreſaid feu duty the firſt year of the entry of each heir-male to the ſaid lands, with the pertinents, as uſe is of feu-farm; and that the foreſaid lands of Meikle Tarrel, with their pertinents above written, together with the foreſaid yearly annualrent of fifty ſhillings (yearly to be uplifted forth of the foreſaid lands of Eaſter Aird) were ſome time holden of the ſaid late king, and are now holden immediately of the ſaid L. P. and his ſucceſſors, as come in his vice, in fee, heritage, and taxt-ward, for yearly payment of the ſum of twenty-four merks money foreſaid, the time of the ward and non-

entry,

entry, as much for the relief, together with the ſum of one hundred pounds money foreſaid, for the marriage of the heir, when the ſame ſhall happen allenarly; and that all and ſundry the foreſaid teind-ſheaves, or parſonage-teinds of the ſaid lands of Eaſter A. T. and Meikle T. with the pertinents, were ſome time holden in chief of the ſaid late king, and are now holden immediately of the ſaid L. P. and his ſucceſſors, as now come in his vice and place, in free-blench, for yearly payment of one penny money foreſaid at the feaſt of Whitſunday yearly, in name of blench-farm, if it be aſked allenarly; and relieving J. E. of C. Lord L. and his heirs and ſucceſſors, of —— bolls victual due to the miniſters of T. yearly, forth of the ſaid teinds, as a part of their ſtipend at the ſaid kirk of T. and of all other miniſters ſtipends and augmentations, communion-elements, and repairing of the kirks, and chapels, and kirk-yard dykes, and of all other taxations, annuities, and other burdens, ſtents, and impoſitions whatſoever, impoſed or to be impoſed on the ſaid teinds, or due and payable forth thereof, of all years and terms bygone, and yearly and termly in time coming; and that the foreſaid lands and ſhealings of D. and B. with their pertinents, were ſome time holden in chief of H. M. of C. and are now holden immediately in chief of R. M. of F. and J. M. of L. who have appriſed the ſaid lands and ſuperiority from him, and otherways having right thereto, by virtue of their infeftments, and their ſucceſſors, as ſucceeding in vice and place, in feu-farm and heritage, for yearly payment of one cuſtom-mart, or twenty ſhillings for the price thereof, in option of the payer, as the old farm uſed and wont to be paid forth thereof, and in augmentation of the rental of the ſaid lands and ſhealings of D. and B. the ſum of three ſhillings four pennies money foreſaid, extending in the haill to the ſum of twenty-three ſhillings four pennies money foreſaid, at two terms uſed and wont, Whitſunday and Martinmas, by equal portions, and doubling the ſaid feu-farm the firſt year of the entry of each heir to the ſaid lands and fiſhings; and that the foreſaid lands of D. in S. with the pertinents above-written, were ſome time holden in chief of the Earl of R. L. L. *&c.* and are now holden immediately in chief of —— E. of R. L. L. his ſon, and his ſucceſſors, in fee and heritage, for yearly payment to him and his ſucceſſors, barons of Banbreich, of the ſum of two pounds money foreſaid, at two terms in the year, Whitſunday and Martinmas, by equal portions, and giving and furniſhing to them two hare-hounds, with their keepers, whenever they ſhall happen to go a-hunting with the king, within the bounds of Roſs, if they be aſked, conform to the old infeftments of the ſaid lands; and that all and ſundry the foreſaid towns, lands, acres, fiſhings, woods, and others above and under written, lying within the ſaid lordſhip of Kinloſs, were ſome time holden in chief of T. Lord B. of K. thereafter of E. Lord B. of K. thereafter (by virtue of the act of general ſurrenders of kirk-lands) of the ſaid late king, and are now holden immediately in chief of the ſaid L. P. ——, as come in his vice and place, and his ſucceſſors, ſuperiors thereof, for yearly payment of the feu-farms, and other duties and ſervices particularly after-mentioned, *viz.* for each acre of land of the ſaid thirty-nine acres and an half acre of land of the ſaid Mains of Kinloſs, lying in the fields *reſpective* above-written,

viz. (*here the reſpective feu-duties of the reſpective acres are inſert, ſome paying ſix firlots of victual, and others but five, but all converted to ſix ſhillings eight pennies* per *boll, and payable at Whitſunday and Martinmas by equal portions, and doubling only the price, as converted, at the entry of the heir allenarly, and giving ſuit and preſence at three head-courts, to be holden at the monaſtery of Kinloſs yearly; other lands of the ſaid abbacy pay bear, or the like price, for each boll,* in optione ſolventis, *and at the ſame terms, if it be aſked, in the name of feu-farm; others pay bear, geeſe, and poultry, or the like price, for the victual, and for each gooſe ten pennies, and each poultry ſix pennies, and for the town and lands of F. twenty-two merks, at the ſame terms, doubling at the entry, and giving ſuit and preſence,* ut ſupra; *other lands pay only money, and doubling at the entry, and giving ſuit and preſence,* ut ſupra; *ſome tenements and yards pay three ſhillings four pennies for a ſhearer in harveſt, and ſome poultry, or price foreſaid; and other lands bear the general clauſe, of giving ſuit and preſence, and obſerving and fulfilling all other conditions, if any be, contained in the old infeftments; and then follows*) and that the foreſaid lands and barony of Pluſcarden, with the pertinents thereof above-ſpecified, comprehending the towns, lands and others above written, old mills of Elgin, and others above ſpecified, were ſome time holden of the ſaid late king, and are now holden of the ſaid L. P. as come in his vice and place, in feu-farm, free barony and heritage, for yearly payment of one hundred and twenty pounds money foreſaid, at two terms in the year, Whitſunday and Martinmas, by equal portions, and doubling of the ſaid feu-farm at the entry of the heir, together with all other duties, rights and ſervices, if any be, contained in the old infeftments of the ſame; (*ſome other parcels of land follow that pay a ſilver duty, and doubling at the entry of the heir, with all other duties, if any be, contained in the old infeſtments thereof*). And that the foreſaid great lodging in Elgin, bounded as ſaid is, was ſome time holden of the late king, and now holden of the ſaid L. P. as come in his vice and place, in free burgage, for yearly payment of the ſervice of burgh uſed and wont; and that all and haill the foreſaid lands and barony of Innerteel, comprehending therein all and ſundry the towns, lands, and others particularly above written, with the pertinents, were ſome time holden of the ſaid late king, and now holden of the ſaid L. P. in chief, and his ſucceſſors, as come in his vice and place, in free-blench, for yearly payment of the ſum of ten ſhillings money foreſaid, upon the ground of the ſaid lands and barony of Innerteel, in name of blench-farm, if it be aſked allenarly; and that all and haill the foreſaid half of the ſaid lands of Over and Nether Tyres, with their pertinents above written, were ſome time holden of W. E. of M. Lord D. and A. *&c.* and are now holden immediately in chief of — E. of M. Lord D. and A. his grandchild, in feu-farm, for yearly payment of —— wheat, and —— money, as the juſt and proportional part of twenty bolls wheat, of King David's meaſure, and of four pounds money, effeiring to the ſaid half lands of Over and Nether Tyres, which is the duty payable for the lands of Seafield, and half lands of Over and Nether Tyres, conform to the old infeftments thereof, at the terms of payment uſed and wont, and doubling the ſaid feu-duties at the entry of the heir to the ſaid lands, and paying and fulfilling all other duties, rights and ſervices, if any be, uſed and wont,

wont, and contained in the old infeftments of the ſaid lands and others foreſaid; and that all and haill the foreſaid lands of Eaſter Tarbat and Eaſter Aird *reſpectivè*, lying within the ſaid ſheriffdom of R. and all and haill the foreſaid lands and barony of Innerteel, Bridge-lands, and Half-lands of Tyre, *reſpectivè* above-written, are, and have been in the hands of the ſaid D. M. E. my mother, relict of the ſaid deceaſed S. J. M. my father, by reaſon of conjunct fee and liferent, continually ſince the deceaſe of the ſaid S. J. M. who deceaſed in the month of September 1654; and that all and ſundry the haill remanent other lands, baronies, and others *reſpectivè* particularly above written, with the pertinents, are and have been in the hands of the reſpective immediate ſuperiors of the ſame *reſpectivè* particularly above mentioned, by reaſon of non-entry, continually, ſince the deceaſe of the ſaid S. J. M. who deceaſed in the ſaid month of September, and year foreſaid; and ſo, by the ſpace of four months, or thereby, in default of me his righteous heir, hitherto not proſecuting my juſt right: Herefore I beſeech your Wiſdoms would ſerve and cognoſce me, neareſt and lawful heir-male to the ſaid deceaſed S. J. M. of T. my father, and alſo as neareſt and lawful heir to him, procreate betwixt him and the ſaid D. M. E. his ſpouſe, in all and haill, and all and ſundry the haill foreſaid lands, towns, baronies, iſles, mills, woods, fiſhings, ports, harbours, manor-places, yards, orchards, tenements, acres, grazing, ſhealings, and others *reſpectivè* particularly above written, with the pertinents, (reſerving to the ſaid D. M. E. my mother her ſaid liferent of ſuch of the ſaid lands as are provided to her in liferent, in manner above mentioned), and to return my ſaid ſpecial ſervice to the chancellary, under the moſt part of your ſeals, as uſe is, and your Wiſdoms anſwer.

Apud Edinburgum —— die menſis —— anno Domini ——

THE which day, the haill perſons of inqueſt being all ſolemnly ſworn, received and admitted to paſs upon the ſaid ſervice, and being forth of court removed, and re-entering therein again; and having all heard, ſeen, and conſidered the ſaid Sir G. M. his claim above-written, with the haill inſtructions and verifications thereof produced in court, and whole acts and procedure of the proceſs; and being well and ripely adviſed therewith, and with the witneſſes and teſtimonies preſent, adduced for verifying his propinquity in blood, and being the eldeſt ſon and apparent heir-male of the ſaid deceaſed Sir J. M. procreate betwixt him and the ſaid D. M. E. his ſpouſe, they (lawful time of day bidden, and none compearing to object in the contrary, after they were formerly cited and lawfully called for that effect, as is uſual in the like caſes) all in one voice, without variance, by the mouth of ——, elected, nominated and choſen by them in chancellor of the ſaid inqueſt, ſerved, and hereby ſerve *affirmativè*, (6) conform to the ſaid claim, inſtructions and verifications thereof produced, and retour the ſame to his Majeſty's chancellary accordingly; whereupon the ſaid Sir G. M. aſked and took inſtruments, in the hands of —— notary-publick, clerk to the ſecond court of the ſaid ſervice.

Note,

Nota, This deliverance and verdict is ſubſcribed by the chancellor of the inqueſt, who, to his uſual ſubſcription, adds the word *cancellarius*.

Thereafter, the clerk of the ſecond court extends the ſervice, moſt unneceſſary to be inſert here, differing nothing from the claim, before the word *herefore*, in the cloſe thereof; and that the clerk is only ſubſcriber of the ſervice, the acts of court being ſubſcribed by the macers, and the verdict of the inqueſt on the end of the claim, ſubſcribed by the chancellor, *ut ſupra*, which is his warrant; only the ſervice does not begin as the claim, but as follows; and the clerk, in the ſtile thereof, ſpeaks in the third perſon all along thus:

HÆC inquiſitio facta fuit in prætorio, ſeu nova ſeſſionis-domo, burgi de Edinburgh, —— die menſis —— anno —— coram A. B. et C. D. duobus ex quatuor clavigeris ordinariis, vicecomitibus, —— vicecomitatum de R. et E. F. et N. in hac parte, nec non ballivis regalitatis de K. et præpoſitis et ballivis burgi de E. etiam in hac parte, ſpecialiter conſtitutis, virtute commiſſionis e. cancellaria, ſub teſtimonio magni ſigilli ad hunc effectum, dictis quatuor clavigeris, vel eorum duobus quibuſcunque conjunctim, ex deliberatione commiſſionariorum pro adminiſtratione juſtitiæ, infra hoc regnum datæ et directæ, de dato —— die menſis —— ultimo elapſæ, diſpenſationem tam penes locum, quam tempus vacantiarum, ſi contigerit, in ſe continentem, per hos probos et fideles homines patriæ ſubſcriptos, viz. (*hic inſerre quindecim perſonas inquiſitionis, cum earum deſignationibus, in ordine, ſecundum qualitatem cujuſvis perſonæ, et poſtea ſic dicendum*) Qui jurati dicunt, magno ſacramento interveniente, Quod quondam dominus J. M. de T. miles baronetus, pater domini G. M. nunc de T. militis baroneti, latoris præſentium, obiit ultimo veſtitus et ſaſitus, ut de feodo, ad fidem et pacem, in omnibus et ſingulis terris, baroniis, caſtris, turribus, fortaliciis, manerierum-locis, molendinis, ſylvis, piſcationibus, decimis, tenementis, aliiſque reſpective particulariter ſubſcriptis, cum pertinentiis, viz. in totis et integris terris et baronia de Cogeach, (*here follow forth the claim, but in Latin, and in the third perſon, as I have ſaid, becauſe the party ſpeaks in the claim, but the clerk of court in the ſervice, from the* (4) *figure, until ye come to* herefore *in the cloſe of the claim, and then conclude the ſervice thus:*) In cujus rei teſtimonium, ſigilla quorundam eorum qui dictæ inquiſitioni intererant, præſentibus brevibus debite executis, ſub ſigillis prædictorum clavigerorum, vicecomitum et ballivorum in hac parte antedictorum incluſis, unacum ſubſcriptione M. J. B. ſigneto ſcribæ, notariique publici, et in præmiſſis clerici, ſunt appenſa, ſub anno, die, menſe, et loco ſupraſcriptis.

Nota, This ſervice, thus extended and ſubſcribed by the clerk, being, with the brieves duly execute, given in to the chancellary, to the director thereof, or his depute, they tranſcribe the ſame, *de verbo in verbum*, in parchment, and *ſic ſubſcribitur* as to the clerk's ſubſcription, and the director or his depute atteſts the ſame to be *vera copia* of the ſervice extant in the chancellary, without addition or diminution, and ſubſcribes the ſame; and this is called the retour; and in this ſervice, ye may ſee pleaſure as well as profit deſigned, *viz.* Two hare hounds for hunting, and in the retour of Largo, lands held of the crown blench, for going in peregrination with the king and queen to the Iſle of May, when required. But this laſt, before the reformation.

The next thing to be conſidered is, how the gentleman ſerved ſhall be infeft, ſince he holds partly of the crown ſimple ward, taxt-ward, feu and blench, and ſome tenements *in libero burgagio*; and the lands and others ſo holden, ly within ſeveral ſheriffdoms, and ſome of them

them within regalities, and others within burghs royal, and others of the lands hold of other ſuperiors than the King.

1. To the firſt I anſwer, that as to ſuch as hold of the crown, the director or his depute give out ſeveral precepts under the quarter ſeal, directed to the reſpective ſheriffs of the ſhires, ſtewarts of ſtewartries, baillies of regalities and P. and baillies of burghs, where the reſpective lands ly, for giving ſeiſin thereof in their reſpective diſtricts. And in each of the ſaid precepts, there is a *capiendo ſecuritatem*, of all due to the King for the entry, whether money, victual, cuſtoms and the like; and if there be a converſion of victual to money, as uſually there is in abbots, or other kirk-lands depending upon abbacies, as priories, prebendaries, altarages, and the like, the precept bears the ſame *in gremio*; as alſo, the duplication due to the King for the entry, and which, at times, is the *ipſa corpora* of the bolls, cuſtoms, *&c.*; and at other times, the prices and rates to which converted by the ancient infeftments, and particularly ſet down in the ſervice, (the clerk thereof to blame, as formerly obſerved, page 281, at the cloſe.

2. Should the party ſerved neglect to take ſeiſin before the next term, the precept is void by an expreſs clauſe therein contained, *viz. Poſt proximum terminum minime valeturus*; and the reaſon is good, becauſe in the precept, and *capiendo ſecuritatem* therein contained, there is only a commencement made of what due to the King, to the term immediately preceding the precept; and therefore, if ſeiſin be not taken before the next term, as the precept is null, ſo the party ſerved muſt take out a new precept, wherein the term then elapſed muſt be ſuperadded, and a ſeiſin taken thereon, and ſo progreſſively, until the ſeiſin be taken and regiſtered, and then the party ſerved becomes vaſſal, and no more non-entry for that vice.

3. If the party ſerved, which is not in this caſe, be minor, and that any of the lands hold ſimple ward, then he cannot ſerve therein, whatever he may do as to feu or blench lands, without a previous diſpenſation from the King's exchequer *ad hunc effectum*, and paſſes the ſignet; and *in gremio* thereof, all the King's caſualties are reſerved notwithſtanding, as you will find in the Latin ſtile thereof, near the end of *Letters paſſing the Signet*. Only this is meant of lands holding ſimple ward, but not lands taxed; in the infeftment whereof, there is a ſpecial diſpenſation given to be ſerved and infeft as heir in ſpecial, notwithſtanding of the minority and nature of the holding; and ſo the minor may, in that caſe, enter and be infeft, without any other diſpenſation: And if this diſpenſation be omitted in the charter wherein the lands were taxed, and I have ſeen it, it muſt be ſupplied by the diſpenſation firſt preſcribed; and whether the lands be taxed or not, the ſervice muſt bear by diſpenſation, after the words *legitimæ ætatis*.

4. Another thing ye would obſerve, *viz.* That as the lands hold ward, and ſo, amongſt other caſualties, the marriage falls to the King, who is preferred, as to that, to all other ſuperiors, even albeit the vaſſal may hold other lands ward of the ſaid other ſuperiors; ſo, in caſe the apparent heir fortune to be married in his father's lifetime, there is no marriage in that caſe due: And ſhould it fall out ſo, the ſervice ought to bear, *per expreſſum*, after the words therein, *Et quod eſt legitimæ ætatis, et ſponſatus vel nuptus ante obitum dicti ſui patris*; elſe, as being ward-lands, the King or his donator will charge for the marriage; albeit, when the matter is brought to the teſt, and the truth is known, it will be found but an eſcape in the writer, and ſo paſſed from, as *per errorem*; and, as formerly has been ſaid, the like has fallen out: but the Lords of the treaſury, upon application made, and the gentleman's being married, yea, ſome five or ſix years before his father died, which was notour, paſſed from it.

5. The next queſtion to be propoſed is, But what if the ſheriff or baillies of regality, *&c.* refuſe to give obedience to the King's precept, pretending that they are lords or barons of erection themſelves, as to the abbot, prior, or other kirk-lands, and would infer, by conſequence, their being ſuperiors, and that their giving obedience to the precept, would prejudge their right, the heir being ſerved and retoured in theſe lands to be holden of his Majeſty? To this I anſwer, That upon return of this precept, with an inſtrument upon the refuſal, the Lords, upon petition, hearing the ſame, and production thereof, will ordain

dain the director to give out another precept under the quarter ſeal, to another gentleman, as ſheriff or baillie of regality in that part, and with power to chuſe his own clerk, for whom he is to be anſwerable, for giving ſeiſin; and this bill is written by a writer to the ſignet, given in to the bill-chamber, written upon by the clerk of the bills, or his ſervants, and paſſed by the Lord Ordinary; and being preſented to the director or his depute, they thereupon expede the new precept, with the ſame *capiendo ſecuritatem* in the firſt precept and *reſponde*. This conſtitute ſheriff or baillie of regality, or whatever judge it be, as ſtewart of the ſtewartry of ——, *&c.* will be charged with what due to the King. And this was practiſed in the caſe betwixt the Earl of Callender and the laird of Airth, who was ſerved heir in ſpecial to his predeceſſors, and obtained a precept under the quarter ſeal, directed to the ſaid Earl, as ſheriff of Stirling, for infefting in the lands of Bearcrofts, which was a part of the abbacy of Holyroodhouſe, in order to make up a right thereof, Alexander Monro now of Bearcrofts, who acquired the ſame from the heir; and the Earl pretending to be ſuperior, as lord or baron of erection of theſe lands, refuſed, as ſheriff, to obey the precept, leſt it might wrong his right; and thereupon application was made to the Lords of ſeſſion, who, upon production of the precept and inſtrument, paſſed the bill, and thereupon the director gave out a new precept to another perſon, as ſheriff in that part, and with power to chuſe his own clerk. And this I know, being writer myſelf, and afterwards paſſed this Alexander Monro of Bearcrofts his infeftment, upon the ſaid heir his reſignation holding of the King; and the ſheriff's refuſal proceeded upon this miſtake, that this was but the firſt precept, and, by information, but wrong, expected two more, as in other caſes, againſt ſubjects that be ſuperiors.

6. The next thing to be propoſed, is, how to be inſeſt in lands holden of ſubjects who will not voluntarily grant a *clare conſtat*, upon production of the ſpecial retour, and want not their own pretences; as, 1*mo*, Year and day at the horn, and ſo the liferent eſcheat of what holden of them fallen. 2*do*, By the original feus, it is provided, that if two terms run in the third, or the like, the feu-duty not paid, the feu falls, and ſubſume more terms to be run in, and reſting, and thereby conclude that the feu is fallen. 3*tio*, They have an appriſing againſt the lands; and either not purged by payment or intromiſſions, or the legal expired, and being led againſt the heir's predeceſſor, there is no place for him to enter, and the ſuperior cannot be obliged in that caſe to obey the precept. 4*to*, That there is a *pactum de non alienando et non contrahendo* in the feu-right, and ſubſumes a contravention of that clauſe; but upon the matter, theſe and the like may be but pretences indeed, and a greater compoſition than due by law, might, and at times does reconcile them, and an entry is given, whether there be a retour or not; but if nothing will prevail, then the remedy is, to take a precept out of the chancellary, founded upon the ſpecial retour directed to that ſuperior, commanding him to infeſt the heir, doing that duty incumbent of the law, and which precept we call *precipimus*, which being preſented, with a *clare conſtat* relative to the retour, to the ſuperior, and an offer made of what proper and due by the infeftment, and the ſuperior refuſing, the director or his deputes, upon production of the firſt precept and inſtrument of the ſaid offer and refuſal, give out a ſecond precept, which we call *meminimus*, putting the ſuperior in mind of the former; and the ſuperior being, of new, required in the former terms, and refuſing, upon report of the ſaid ſecond precept, and inſtrument taken upon the ſaid refuſal, the director or his deputes give out a third precept, which we call *et niſi feceritis*, importing, as afterwards is cleared, the King will do it himſelf, by a fourth precept; and this third precept being preſented, with the *clare conſtat*, to the ſuperior, and an offer afreſh made to him, of what due of the law, and he refuſing, and the precept and inſtrument of refuſal brought back to the chancellary, the director or his depute, without any citation, proceſs or decreet, give out a fourth precept under the quarter ſeal, in the King's name, relative to the former three precepts, offers and refuſals directed to ——, as baillie in that part, for giving of ſeiſin; and which being given by any notary, and regiſtered, as it ſecures the heir, who afterwards, during life, holds of the King, ſo, all the caſualties of the ſuperiority, during the other ſuperior's life, belongs to the King as a *pœna juris*; but if the King be not immediate ſuperior, and that others

more

more immediate be interjected, it alters the caſe, and thoſe muſt alſo be diſcuſſed, and orderly and regularly, according to the form of chancery and cuſtom in ſuch caſes.

7. There is another caſe that falls out, and not improper to be handled, *viz.* This ſuperior, probably upon the firſt precept, yea without a precept, and upon ſight of, or without a retour, is content to grant a *clare conſtat* to the heir; but the ſuperior, not being infeft himſelf, it may prove of no effect, ſhould the ſuperior deceaſe before he be infeft, and has fallen out ſo, and no ſmall inconvenience thereupon enſued; for the next in blood might ſerve heir, and, as heir, be infeft to the predeceſſor who died laſt veſt and ſeiſed, and then bring the entry granted by the late apparent ſuperior in queſtion; and which is yet worſe, ſhould the heir, who received the *clare conſtat* from the apparent ſuperior not infeft, and died uninfeft, as ſaid is, contract debt from perſons, who, following the faith of his being infeft, but not knowing the certainty thereof, lend their money to him, and he dying, before he was validly infeft by a true ſuperior infeft in the ſuperiority; in what caſe ſhould thoſe creditors be? which I leave for lawyers to plead, and the Lords to judge, ſhould it fall out ſo; and yet the law, if duly obſerved, has not left men without remedy, *viz.* If a ſuperior be not infeft, the apparent vaſſal, immediately as he is ſerved and retoured, or rather after the three precepts, and before the fourth, may raiſe a ſpecial charge againſt the ſuperior, founded upon his retour, and charging the apparent ſuperior, to obtain himſelf ſerved, retoured and infeft as heir in ſpecial, to the predeceſſor who died laſt veſt and ſeiſed in the ſuperiority, within forty days, if within the kingdom, and at Edinburgh croſs, and pier of Leith, on ſixty days, if forth thereof, by letters of ſupplement, *ad hunc effectum*, that he may be in capacity validly to enter and infeft the vaſſal's heir ſo ſerved and retoured, with certification, as in the ſtile thereof, amongſt *Letters paſſing the Signet*, page 82; and this being execute, and the days elapſed, the vaſſal may raiſe declarator againſt the ſuperior, narrating the whole, and ſubſuming and concluding, that becauſe of his contempt, and prejudice the vaſſal receives, his amiſſion and tinſal of the right of ſuperiority, and caſualties thereof during life, and that he may hold of the King, if mediate ſuperior, during the ſaid ſpace; the ſtile whereof is eaſy, only narrate the ſame narrative of the ſpecial charge, and its being raiſed and executed, and then ſubſume the contempt, and conclude according to the certification of the ſpecial charge, and ye muſt convene the apparent heir of the ſuperior, and miniſters of ſtate, tutors and curators, if the apparent heir be minor, and all parties having, or pretending to have intereſt; but I am clear, the three precepts ſhould firſt run, and then the other of the ſpecial charge and declarator, raiſed and executed ſucceſſively, as ſaid is, follows natively.

After this, I intended to have ſet down an abbreviary of all heirs their ſervices, and had them in manuſcripts; ſuch as heirs of line of a man's body, who have right to all belonging to the father, that by the infeftments are conceived in favours of the heirs whatſoever, and to heritable bonds, bearing an obligement to infeft, and whereupon infeftment followed or not, and bonds ſecluding executors. As alſo, ſuch as heirs of firſt, ſecond, third or fourth marriages, who are heirs of proviſion by contracts of marriage; and as to the bonds of proviſion granted by a father to a ſecond, third or fourth ſon, *&c.* and to the heirs of that ſon's body, which failing, to ſuch another ſon, elder or younger, and heirs of his body, and ſo forth; and, probably, by a bond taken by a gentleman for money payable to himſelf, he being on life, and to the heirs of his own body, which failing, to ſuch a perſon; and, there being no children, probably to his own wife and her heirs; and the like proviſions, which are arbitrary for men to do them, and diſpoſe of their own to whom, and in what terms they pleaſe, being acts done *in liege pouſtie*. And was likeways reſolved to give an account how to anſwer all the points of the brieve in all caſes, and how, there being an appriſing upon the lands, and infeft by the ſuperior, the ſame, as well as a conjunct fiar, may ſave non-entry, or ward, albeit not marriage: But being informed, that James Viſcount of Stair, that great and learned lawyer, and Preſident of the ſeſſion, had undertaken that taſk, and actually did perform his deſign, (which I ſaw before printing my *Syſtem of Styles*) I omit what I propoſed to myſelf in that, and refer you to his Lordſhip's

late *Inſtitutions*, pages 467, 468, 469, *&c.* and look his index, wherein ye will find their various kinds, natures and manner of proceedings, therein very fully and lively digeſted; and wherein he ſhews himſelf, not only a lawyer, but a great formaliſt and ſtyliſt, as if bred writer to the ſignet; and ſure not without, if not with the greater, pains and ſearch of, and prying in theſe matters. And as an evidence of his ardent deſire to be verſed in all matters, he had from me the *firſt part* of my *Syſtem of Styles*, called *Real and Perſonal Diligence*, and my *third part*, being *Summons paſſing the Signet*; the firſt whereof he kept eight months, and the other four or five months, and returned them without amendments, and his reviſing of them, in more eſteem with me than the lending; only in ſome things he is general and curt, as to the old and new extents: And therefore, know, that as Stair tells of an old and new extent, ſo each ſhire had their own extent, both old and new; and ſome ſhires the ſecond, ſome the third, ſome the fourth, and ſome the fifth male (and of which I have not ſeen any) of new extent; and the nearer the Borders, the leſs ſtill; and the farther north or weſt, the greater, of new, if not both extents, becauſe of their remoteneſs from immediate and extemporary incurſions of the Engliſh, then our open enemies, but now under one King. And when a ſervice occurs, the clerk may know from the laſt publick charter and ſeiſin, or retour, precept under the quarter ſeal, and ſeiſin thereon of the laſt vaſſal, if ſo he had the eſtate, in what lands he died laſt veſt and ſeiſed, and how they hold, of whom, and for what duty; and as for the time, how long in the ſuperior's hand, and the reaſon and cauſe why, (whether by ward or non-entry) the time of the vaſſal's deceaſe, and nature of the holding, and majority or minority of the apparent heir, clears that point; for, as all lands holden feu are the ſame, both as to the old and new extent, and in that differ from lands holden ward or blench, ſo the old extent of lands holden ward and blench, may be cleared by an old ſervice or retour; or, if the old conveyances of the eſtate was by contract of marriage, diſpoſition containing procuratory of reſignation, or a ſimple procuratory, (and uſual betwixt father and ſon, being a donation, not alienation, as in point of emption and vendition betwixt ſtrangers, and in which conveyances ſeldom or never was the extent comprehended or contained) then the old extent muſt be had from the records of the ſhire where the lands ly, and ſo muſt the new extent alſo, or may be had, if wanting there, from the records of exchequer, where all are, or ſhould be; and if wanting there, (becauſe many of the records were loſt and carried away the time of the late troubles) then ye may have the old extent by Duke Hamilton's taxation 1633, which was before the wars, and loſs of regiſters, and was ruled by the old extent, there being ſo much of ſupply as thirty ſhillings impoſed upon each pound land of old extent, for then we knew no ſuch thing as ceſs; and beſides, there were taxations before then, as in the year 1612, *&c.* And now concluding, that the old extent is found out, the next thing to be known, is the rule of the new extent in ſervices; and it is this: Each ſhire, as ſaid, have their own new extent, as well as the old; and ſome ſhires compute to the double, ſome the triple, ſome the quadruple, and ſome ſhires the quintuple; and ſo, ſuppoſing that the lands are of old extent four pounds, and that the new extent of the ſhire where the lands to be ſerved in ly, is the fourth male; I anſwer that point of the brieve (*quantum valent nunc per annum, et quantum valuerunt tempore pacis*) thus, "And that "the ſaid lands of ——— are now worth by year ſixteen pounds, and were worth in time "of peace four pounds." But notice, that in the *capiendo ſecuritatem*, in the precept under the quarter ſeal, for giving ſeiſin on the retour, the new extent, *viz.* the ſixteen pounds, is the rule, and the duty payable to the King for the entry, and not the old, which was then the only rule of taxations. And ſo much as to the definition of the old from the new, and new from the old extent

I have alſo ſeen the new and old extents the ſame, which was hard, in the caſe of taxations: But, ſince ceſs is now come in place of that, to pry in the reaſon were needleſs.

The next thing to be obſerved in ſervices, as to the old extent, and in caſes that fall out, is, I am to be ſerved heir to my predeceſſor in a land never retoured or extented by itſelf, and, in effect, was of old a part of ſuch an earldom, lordſhip, or barony; and I know not how to find out the old extent or retoured duty. To this I anſwer, that publick burdens going

then

then by way of taxations, it is probable the acquirer of this land (wherein the apparent heir is to be ſerved), did, by his diſpoſition, divide the retoured duty of the whole, and took his proportion thereof effeiring to what acquired, and the diſpoſition would be inſpected; for if ſo, (and which I have ſeen in ſeveral diſpoſitions), it is a true and infallible rule. But if the ſeller, or rather acquirer, was not ſo circumſpect, then the next and only remedy left, is, to find out the old extent or retoured duty of the whole earldom, lordſhip or barony, whereof this land was a part, and then compute equally and juſtly, either the rent of the whole, or ſubtract what this land is thereof: As, for example; the whole is one hundred chalders victual a year, and the old extent or retoured duty thereof twenty pounds; and this land acquired is twenty chalders, *ergo*, the fifth part, and ſo falls to be a fifth part of the retoured duty, *viz.* four pounds; and ſo decided, July 19th 1631, Earl of Kinghorn *contra* Strang. And Stair is of the ſame opinion, and cites the former, page 247. Parl. 21. And rather take a little more than leſs than the juſt proportion, to prevent a diminution of the old penny mail, being a ground of eviction of the land in law. And as for patronages and teinds, ordinarily they are incorporated with lands, and of one and the ſame extent; and if not incorporated, but disjoined, hold blench, and the retoured duty in the ſame extent, except with the burden of ſtipends, communion-elements, repairing in the church, and the like.

I have ſeen in an ancient charter-cheſt a commiſſion under the quarter ſeal, upon the Lords deliverance, directed to a nobleman or gentleman, as ſheriff in that part of the ſhire of ——, within which the eſtate lay, wherein the heritor was to be ſerved; and did ſee the retour, precept under the quarter ſeal thereon, and ſeiſin alſo; and the reaſon of this commiſſion was, becauſe the gentleman to be ſerved was heritable ſheriff of the ſhire himſelf; and ſo would not be ſerved before his depute, being the ſame, and by an authority derived from himſelf, but took this method; and the bill given in to the Lords for the commiſſion, and the commiſſion itſelf, run upon the ſame narrative and ſtrain.

Nota, There be two other ſervices, which fall out at times, not touched by my Lord Preſident, *viz.* 1. The apparent heir of a ſuperior falls to be heir by blood or tailzie to his own vaſſal in an opulent fortune, and how to be ſerved heir, and eſtabliſh the right of that eſtate in his perſon, is the queſtion, conſidering he is apparent heir himſelf to the ſuperior, but cannot repreſent, becauſe of debt and incumbrances upon the eſtate, and ſuperiority wherein his father, or other predeceſſors, died laſt inſeft. And, upon the other hand, there is a neceſſity he have the right of the vaſſal's eſtate eſtabliſhed in his perſon, as ſaid is: And to ſerve heir to the vaſſal, and in the ſervice to obtain the property conſolidated with the ſuperiority, (as might be done, were he inſeft in the ſuperiority), is impoſſible, becauſe not inſeft therein; and the remedy, in this caſe, is the ſolution of the queſtion. And I have ſeen the parallel caſe fall out, and the method following obſerved, and lawyers did approve thereof.

It was inquired, if he would repreſent in the ſuperiority? and was anſwered in the negative. Thereafter it was inquired, if the right of ſuperiority was appriſed by any creditor of his predeceſſors, and inſeft? (for in that caſe, he might ſerve heir to the vaſſal, and then obtain a *clare conſtat* from that appriſer) but was anſwered in the negative; only there were ſome conventional rights upon the eſtate, wherein that ſuperiority was not comprehended; and, in fine, it was reſolved, a creditor of the predeceſſor and ſuperior inſeft, ſhould charge this apparent heir to enter heir to his predeceſſor in the eſtate and ſuperiority aforeſaid, and thereafter purſue him, as lawfully charged to enter heir, for the debt; and upon his renunciation, obtain decreet *cognitionis cauſa*, and thereupon to adjudge; upon which inſeftment following, the adjudger might grant a *clare conſtat* to the ſon, as heir to the vaſſal, to whom he might ſucceed in the property, albeit not to the father, or other predeceſſor in the ſuperiority; and all was done accordingly.

The other ſervice, not touched by my Lord Preſident, is this: A father, by his ſon's contract of marriage, gives the gentlewoman, not only a jointure, but alſo puts the ſon, in contemplation

templation of the marriage, in fee, of the two parts of his eſtate, and is provided to the heirs of the marriage, which failing, to the other perſons ſubſtitute by the contract; whereby the father hath become obliged to infeft them and the heirs by double infeftments, *à me* or *de me*, but reſerves the reſidue of the eſtate to himſelf; and in this marriage, there was a ſon procreate, and his father firſt deceaſed; and thereafter, this ſon procreate in the marriage, his grandfather deceaſed, who, being proprietor of the third of the eſtate, and ſuperior of the other two parts, (the father of the child procreate in the marriage being only baſely infeft, and not confirmed by the King, ſuperior to the grandfather), the queſtion now remains, how this child, the oye, or grandchild, ſhall be infeft in the two parts whereof his father was proprietor, by the contract of marriage, and ſeiſin following thereupon, not being confirmed, or infeft by reſignation; for, in entering heir to the grandfather in the property of the third part of the eſtate reſerved, and ſuperiority of the other two parts, there was no difficulty. I did propoſe this anſwer to lawyers, *viz.* That the grandchild ſhould firſt take out a brieve, and obtain himſelf ſerved, retoured and infeft heir in ſpecial to the grandfather in the whole eſtate, without diſtinction of property or ſuperiority, and then, and in the next place, take out another brieve, and ſerve himſelf heir in ſpecial to his father in the two parts of the eſtate wherein he died baſely infeft; and in the claim of the ſaid ſervice, in anſwer to that point of the brieve, of whom holden, and how, it muſt ſay, "That the ſame was held by my ſaid deceaſed father of the "deceaſed —— of —— my grandfather, his heirs and ſucceſſors, in free blench, "for payment of —— yearly, at the feaſt and term of ——, in name of blench-"farm, if it be aſked allenarly; and are now holden of me, as ſerved, retoured and infeft "heir to my ſaid deceaſed grandfather therein." And then the reſt of the ſervice (I mean the claim) goes on in courſe, until ye come to the *herefore*, which would be conceived in the words following, *viz.* "Herefore I beſeech your wiſdoms, that ye would ſerve and cognoſce "me, as eldeſt lawful ſon and heir in ſpecial to the ſaid —— my deceaſed father, "procreate betwixt him and —— his ſpouſe, in the lands and others above ſpecified, "wherein he died laſt veſt and ſeiſed as of fee, holden of his own father and my grand-"father, in manner foreſaid; and becauſe the ſaid lands and others foreſaid, were holden "by my ſaid deceaſed father the time of his deceaſe, of my ſaid deceaſed grandfather, his "heirs and ſucceſſors; and that I am ſerved, retoured and infeft therein, as heir to my "ſaid grandfather, and thereby become ſuperior of the ſame, that your wiſdoms would "find and declare the right of property of the ſaid lands and others above mentioned, "pertaining to my ſaid father, to be conſolidate with the right of ſuperiority, in the per-"ſon of me, as ſuperior, and of my heirs and ſucceſſors, and to remain and abide with us "as our own proper lands and heritage, heritably, irredeemably and inſeparably in all "time coming, *ad perpetuam remanentiam*. And this I deſire your wiſdoms to do, and "return the ſame to his Majeſty's chancellary, under the moſt part of your ſeals, as uſe is, "and your wiſdoms anſwer."

The VERDICT *of the* INQUEST *follows.*

Apud Edinburgum —— die menſis —— anno Domini ——.

THE which day, the haill perſons of inqueſt, who paſſed upon the ſaid ſervice, being all ſolemnly ſworn, received and admitted to paſs thereupon, *(here take in the verdict of the former ſervice, p. 581, from the word* ſervice, *line 2. to the figure* (6) *and thereafter add)* and conſolidates the right of property, with the right of ſuperiority in the perſon of the ſaid —— *(meaning the perſons ſerved)* as ſuperior, and of his heirs and ſucceſſors, and to remain and abide with them as their own proper lands and heritage, heritably, irredeemably and inſeparably in all time coming, *ad perpetuam remanentiam*, conform

form to the ſaid claim, inſtructions and verifications thereof produced, and retours the ſame to his Majeſty's chancellary accordingly. Whereupon ———, as procurator for, and in name and behalf of the ſaid ——— heir foreſaid, aſked and took inſtruments in the hands of ——— notary-publick, and clerk to the ſecond court of the ſaid ſervice.

This deliverance, or verdict, is ſubſcribed by the chancellor of the inqueſt, who, to his uſual ſubſcription, as in all ſuch caſes, adds the word *cancellarius*.

As to the way and manner of extending this ſervice, by whom, and how retoured, read the poſtſcript or animadverſion prefixed to the former ſervice, which ye will find p. 582, and the act of court, as to the ſaid conſolidation, would be accordingly.

Others, again, as to the grandchild's ſervice immediately preceding, as heir to his father, propoſed this method, *viz.* That albeit the father died baſely infeft; yet the contract of marriage, and precept of ſeiſin, bearing by double infeftments, the contract and ſeiſin might be firſt confirmed by the king, and the confirmation declared in the ſignature to be as ſufficient as if granted before the father or grandfather's deceaſe; and in that caſe, would accreſce to the ſon, who, after that confirmation was expede, might ſerve heir to his father, whoſe ſeiſin was then confirmed, and thereby made publick. But to this propoſition theſe anſwers being made, 1. That the courſe was more chargeable; and, 2. How could the inqueſt, even in that caſe, ſwear, that the father died laſt veſt and ſeiſed, as of fee, *&c.* in the lands, and that the ſame were holden by the defunct (the father), of the king; whereas, truly, the time of the father's-deceaſe, he held them baſe of his own father? And upon which anſwers, the method propoſed was paſſed from. Thereafter, it was propoſed, that the grandchild might be ſerved and retoured heir in general to the father, and thereby had right to the procuratory of reſignation in his father's contract of marriage, and, reſignation being made, infeftment might follow. But this method could take no effect, the grandfather being alſo dead.

Nota, One caſe more may fall out, and neceſſary to be known, and the proper remedy, *viz.* At times, a ſheriff or clerk of the ſhire may deceaſe, and of which ſhire the king has the juriſdiction, and power of creation of clerks, and other members of court; in which caſe, there is a perſon within that ſhire, whoſe father, or other predeceſſor, is alſo deceaſed; and being deſirous to ſerve heir in ſpecial, as well as in general, before the next term, to prevent non-entry; and which, in the ordinary courſe he cannot do, where either ſheriff or clerk is wanting; and judges it troubleſome, if not expenſive, to ſerve before the macers; and how to remedy or ſupply this, is the queſtion to be ſolved. It is anſwered, That the apparent heir may give in a bill to the Lords, repreſenting, that he is to ſerve heir to ſuch a perſon in all lands, heritages, annualrents and others, wherein his predeceſſor died laſt veſt and ſeiſed as of fee, at the faith and peace of our ſovereign Lord, lying within ſuch a ſhire, which he cannot effectuate, by reaſon the ſheriff or clerk, as it falls out, is dead; and therefore craving a warrant to the director and his deputes, to direct, emit and iſſue forth a commiſſion to ſuch a perſon, as ſheriff in that part of that ſhire, with power to chuſe his own clerk, if both be dead; and if the ſheriff be alive, and the clerk only dead, with power to the ſheriff to nominate and appoint a clerk *in hac vice et ad hunc effectum*. And the reſt of the ſtyle goes in courſe, as to a diſpenſation for the vacancy and all; only, if the ſheriff be the perſon ſupplied, the magiſtrates of the head-burgh of the ſhire will be ordained to adminiſtrate the oath *de fideli*, and what elſe preſcribed by law, to the ſheriff in that part; and if the clerk be the perſon ſupplied, the exiſting ſheriff will adminiſtrate the oaths to him; and ſo the brieve is taken out and directed accordingly; and the ſervice proceeds, is retoured, and precept thereon taken out of the chancery, directed to the ſheriff, whether old or new, and the clerk, whether old or new, gives ſeiſin.

The

The next thing I fall upon, is the other ſervices, whereof ſome retourable, others not: And as, to ſet down the whole method, acts and inſtruments of the reſpective proceſs, were to prove tedious, and that no clerk to the proceſs can err, (whether before the macers or inferior courts, there being nothing to alter, but to diſtinguiſh in either caſe as to the reſpective brieves, *mutatis mutandis*); ſo I begin, firſt, with a decreet of diviſion of lands, proceeding upon a brief of diviſion out of the chapel and chancellary of a regality, wherein there are ſeveral things obſervable that occurred during the dependence of the brieve and proceſs; and albeit the ſtyle ancient, yet moſt formal, and no doubt adviſed by lawyers.

DECREET *of* DIVISION, *conform to a Brieve directed forth of the Chancellary of the Regality of* St. Andrews, *within which the Lands controverted as to their Marches ly.*

TO all and ſundry whom it effeirs, to whoſe knowledge theſe preſents ſhall come, M. C. L. ſtewart-depute of the regality of S. to the effect underwritten, ſpecially conſtitute, greeting, in God everlaſting: Foraſmuchas, anent the brieve of diviſion of my L. of S. chapel, directed to the ſtewart-general of the ſaid regality, and his deputes, one or more, charging them to cauſe the lands of B. with the pertinents, lying within the ſheriffdom of F. and the ſaid regality be juſtly divided, by an aſſize, as they ly in length and breadth, adjacent to the lands of S. on the eaſt, the lands of D. on the weſt, the water of E. on the ſouth, the mill-lands of M. mill at the north and eaſt *reſpectivè*; the lands of W. at the north and the weſt *reſpectivè*, betwixt J. B. Lady L. ſpouſe to J. S. heretrix of that one half of the ſaid lands of B. with the pertinents, and the ſaid J. for his intereſt, and R. M. of L. knight, curator to the ſaid J. and J. for his intereſt on that one part, and M. T. M. of S. heritable poſſeſſor of that other half of the ſaid lands, on the other part, as at more length is contained in the ſaid brieve; which brieve, P. L. of D. ſtewart-general of the ſaid regality, cauſed lawfully to be proclaimed at the market-croſs of S. to be ſerved before him, or any of his deputes, one or more, upon the ground of the ſaid lands of B. the —— day of —— —— years, and cauſed lawfully warn both the ſaid parties thereto, and all others having intereſt, as effeiring: At the which day, compeared the ſaid ſtewart upon the ground of the ſaid lands, and there cauſed fence a court, and call the perſons above-ſpecified, after the form and tenor of the ſaid brieve; the ſaid J. and R. M. compearing by M. E. H. their procurator, and the ſaid J. S. party, and the ſaid M. T. compearing by M. D. G. and M. G. M. his procurators, the rights, reaſons, allegations, writings, evidents and documents, being ſhown, produced and conſidered, at ſundry diets, and, at the laſt, an inqueſt of the perſons under-written, which were lawfully ſummoned thereto: That is to ſay, J. T. in D. Mill, D. S. in K. A. B. of P. A. L. in K. U. F. in D. Millden, G. S. in S. A. S. in H. J. G. in P. D. W. in B. T. N. in C. R. L. in B. D. T. in the G. T. M. in H. D. A. in P. and D. S. in K. Which perſons being choſen, ſworn and admitted, paſſed forth of the court, and re-entering

re-entering therein again, declared and delivered *negativè*; whereupon the ſaid J. J. and R. meaned themſelves to the Lords of Our Sovereign Lord's ſeſſion, and raiſed a ſummons of reduction; after calling of the which, and long reaſoning, the ſaid Lords of our council directed their letters, charging the ſaid ſtewart and his deputes, who ſat upon the diviſion, to direct their precepts, charging each of the ſaid parties, and inqueſt above-written, to convene again upon the ground of the ſaid lands, upon the —— day of —— —— years, to deliver *affirmativè* or *negativè* upon the point of the ſaid brieve, and before any following or delivering thereupon, the ſaid ſtewart being diſcharged of his office by my Lord S. Lord of the ſaid regality, and others, *viz.* M. C. and J. M. being made deputes by the ſaid L. to take cognition in the cauſes above nominated; in like manner, the ſaid J. J. and R. obtained other letters of our Sovereign Lord's, charging the ſaid M. C. and J. to direct their precepts to convene both the ſaid parties as of before, together with the inqueſt above-mentioned, the —— day of —— —— years; and in caſe any of them were ſick, dead, forth of the realm, or abſent, others in their places to deliver *affirmativè* or *negativè*, upon the points of the ſaid brieve, as at more length is contained in the ſaid letters: At the which day, compeared M. C. L. upon the ground of the ſaid lands, and cauſed fence a court, and call both the ſaid parties, the purſuer compearing by J. S. her ſpouſe, and the defender as of before; and the inqueſt alſo compeared all perſonally, except D. D. in P. and D. S. in K. in whoſe rooms and places were choſen, ſworn and admitted, J. B. elder, citizen in S. and J. N. in B. which perſons of inqueſt, after that they were charged conform to the tenor of the ſaid letters, paſſed forth of court, and thereafter the ſaid ſtewart-deputes aſſigned to both the ſaid parties the —— day of —— foreſaid, to hear deliverance given forth by them in the ſaid cauſes, the parties being warned *apud acta*; the which day compeared the ſaid M. C. and fenced a court, and all the parties, by M. E. H. J. S. and M. G. M. and the haill inqueſt upon the ground of the ſaid lands, who were charged by R. M. officer, of new to deliver *affirmativè* or *negativè* upon the points of the ſaid brieve, under the pains contained in our Sovereign Lord's letters, as at more length is contained in the ſame; which perſons of inqueſt, after long conſultation and ripe adviſement, divided the forenamed lands equally in two halves betwixt the ſaid portioners, by runrig, as it ſhall happen them by cavel, conform to the points of the brieve, as they ly in length and breadth; after the which declaration and deliverance in plain court, the judge foreſaid cauſed caſt cavels, and the ſaid J. fell the ſhadow half; to the which verdict the ſaid judge inſtantly interpoſed his authority, and kenned and entered the ſaid J. B. compearing for the ſaid J. in her name, and himſelf for his intereſt; which diviſion of the forenamed lands, made in manner foreſaid, the ſaid judge decerned and ordained to be obſerved and kept by both the ſaid parties, and the ſaid lands to be bruiked and joyſed by them, their heirs and ſucceſſors, conform to the ſaid diviſion. In witneſs of the which, I have cauſed my clerk of court ſubſcribe theſe preſent letters teſtimonials, with his hand, at S. the —— day of —— —— years.

Nota,

Nota, This brieve is not retoured, for the judge puts all immediately in execution, and the parties in poſſeſſion conform.

CLAIM *of the Service of a Brieve of Terce, which is not retoured to the Chancellary.*

HOnourable perſons, and good men of inqueſt, I D. M. F. relict of the deceaſed A. L. D. unto your Honours ſay, That the deceaſed A. L. D. my huſband died laſt veſt and ſeiſed, as of fee, at the faith and peace of our Sovereign Lord, in all and haill the lands and barony of D. (*here were all the lands, manor-places, patronages, teinds, and others comprehended in the ſaid barony, both property and ſuperiority, and where they ly, particularly inſert, as in the laſt publick infeftment, all holden of his Majeſty* in capite, *and then follows*) with power to take ſeiſin, in all time thereafter, at the manor-place of D. as the principal meſſuage of the ſaid barony, conform to a diſpenſation contained in the charter, and infeftment thereof under the great ſeal, granted to my ſaid deceaſed huſband, or his predeceſſors, (*thereafter follows ſome other particular lands, and then*) the third part of the ſaid lands and barony of D. with manor-places, houſes, biggings, *&c.* lying of old by annexation within the barony of J. and ſheriffdom of B. and now, by a later annexation, within the ſheriffdom of E. and F. together with the third vice or turn of the patronage of the kirk of D. parſonage and vicarage thereof; as alſo, with the advocation, donation, and right of patronage of all chaplainries of the ſaid third part lands, all belonging of old to the deceaſed W. E. of M. *&c.* and acquired from him by the ſaid deceaſed A. L. D. at the leaſt by his authors and predeceſſors, and wherein he was infeft; and in like manner, in all and haill the lands of (*here were contained ſome lands and others lying within the ſheriffdom of C. ſecluding ſalmon-fiſhing, with the teind-ſheaves, and parſonage-teinds of the ſame lands, and then follows in the claim*) and that I was lawful wife to the ſaid deceaſed A. L. D. the time of his deceaſe, who deceaſed in the month of —— —— years, living in family with him, and whoſe marriage with him was not accuſed, or in the leaſt controverted in his lifetime and mine; and that therethrough, and by the laws and conſtant and inviolable practice of this kingdom, I ought and ſhould have a reaſonable terce of all and ſundry the lands, barony, and others above-expreſſed, wherein the ſaid deceaſed A. L. D. died laſt veſt and ſeiſed, as of fee, except the advocation, donation, and right of patronage above-ſpecified: Herefore I beſeech your Honours, to find and declare I was lawful wife, and ſo holden and reputed, to the ſaid A. L. D. and my marriage with him not accuſed at or before his deceaſe, but then in family with him, and as his wife; and thereupon, that ye will ſerve and cognoſce me to a reaſonable terce and third, of all and ſundry the lands, barony, and others above-mentioned, with the pertinents, wherein the ſaid deceaſed A. L. D. my huſband died laſt veſt and ſeiſed, as of fee, in manner above-rehearſed, and your Honours anſwer.

The

The Service being led, the VERDICT *of the* INQUEST *follows.*

Apud Edinburgum, vigesimo primo die mensis Maii 1675.

THE which day, the haill persons of inquest who passed upon the said service of terce, by the mouth of M. C. advocate, elected, nominated and chosen by them in chancellor of the said inquest, have found, and hereby find, that the said lady was holden and reputed the said A. L. D. his lawful wife, and the marriage never accused by him in his life, but entertained and kept in family with him as his lady, at his very death: And therefore, have served and cognosced, and hereby serves and cognosces *affirmativè*, conform to the claim, writs and documents produced, and other testimonies adduced for instructing thereof; and recommends to the sheriff, and his deputes, to divide the said third from the other two parts of the said lands and estate.

Nota, This verdict was subscribed by the chancellor, by his ordinary subscription, and thereto subjoins—CANCELLARIUS.

After this, the sheriff, or other judge before whom led, may divide the third from the other two part.

But I must say, a contract of marriage, giving a certain jointure in contemplation of all other liferent, terce, *&c.* had been more compendious, and less expensive and burdensome to the heir.

Nota, I thought to have set down the brieves of tutory in law, idiotry, furiosity, deaf and dumb, and wherein they differ, lining, perambulation, the three first whereof are retoured, seeing sufficient caution must be found for faithful administration, before the retours of these be given out; but my Lord Stair having so fully done the same, and given exact account of their several natures, and import of all, and of other brieves, some time practicable, but now in desuetude, as ye will find in his Institutions, page 551, 552, 553, 554, 555, *&c.* it was as improper as unnecessary for me to concern myself in it, especially seeing all these are done before the sheriffs of the shires, baillies of regalities; and the clerk can hardly err in the style, if the brieve be but answered *in terminis*; and at other times, another party alledging he is nearest of kin on the father's side, or that he who is nearer is not 25 years, or that the judge is partial, may make application to the Lords, who will either discuss the point summarily, and remit back to the judge to whom the brieve is directed, with such rules and qualifications as they think fit, or else will be advocate to the macers, as sheriffs in that part; and if the Lords find an intricacy, will appoint them some of their own number to be assessors; and should the assessors scruple, will be reported and discussed *in præsentia*.

The next thing I fall upon, is what only passeth the quarter seal, otherways called, the testimony of the great seal.

SIGNATURE *of* PRESENTATION *by his Majeſty, of a Vaſſal to a Superior of a Subject, of whom ſome Lands hold that fell in his Majeſty's Hands, by Reaſon of Forfeiture.*

OUR SOVEREIGN LORD, conſidering the good and faithful ſervices done and performed to his Majeſty, by A. B. of ———: Therefore, his Majeſty, with the ſpecial advice and conſent of (*here take in the conſents, according to the conſtitution of the exchequer for the time*) ordains a letter of preſentation to be made and paſſed under his Majeſty's quarter ſeal, otherways called the teſtimony of the great ſeal of the ſaid kingdom, in due and competent form, making mention, that his Majeſty, underſtanding that the lands of ——— (*here were all the lands, and what elſe contained in the infeftment inſert, and where they ly, and then followed*) all pertaining heritably of before to M. J. L. of ——, holden by him immediately of J. E. of T. as ſuperior, and now appertain and belong to his Majeſty, and are fallen and become in his Majeſty's hands, and at his royal gift and diſpoſition, by reaſon of (6) eſcheat and forfeiture, laws and practique of the ſaid kingdom, and inherent privilege of the crown, through being of the ſaid M. J. L. in a juſtice court, holden within ——, upon the —— day of —— —— years, by his Majeſty's juſtice general and juſtice-clerk, and remanent Lords of juſticiary within the ſaid kingdom, found guilty of, and convicted for the crimes of high treaſon and leſe-majeſty, committed by him againſt his Majeſty, and his Majeſty's government, in manner, and at the time ſpecified and contained in the ſaid ſentence and doom of forfeiture. And being deſirous to confer a character and mark of his royal favour and bounty upon the ſaid A. B. and likeways, being unwilling that the ſaid J. E. of T. immediate ſuperior of the ſaid lands and others foreſaid, be prejudged for want of a vaſſal therein for the future; therefore, nominating and preſenting, likeas his Majeſty, with conſent foreſaid, by theſe preſents, nominates and preſents the ſaid A. B. and his heirs and aſſignees, in vaſſals and heritable tenants to the ſaid J. E. of T. and his heirs and ſucceſſors, heritably and irredeemably, in all time coming, in the ſaid lands and others above mentioned; willing and requiring hereby them, as ſuperiors foreſaid, immediately upon ſight hereof, and as they will be anſwerable, to enter and receive the ſaid A. B. and his foreſaids, in vaſſals and heritable tenants to them, in the ſame lands and others above mentioned, with the pertinents, lying as ſaid is, to be holden of the ſaid J. E. of T. and his foreſaids, as ſuperiors, the ſame way and manner, and with all the privileges and immunities, and for payment of the duties contained in the ſaid M. J. L. or his predeceſſors and authors, their rights and infeftments of the ſame, at any time before (7) the ſaid ſentence and doom of forfeiture, and to grant, ſubſcribe and deliver to them ſufficient charters, containing precepts of ſeiſin, and other ſecurities requiſite thereanent, the ſaid A. B. and his foreſaids doing and performing to the ſaid ſuperiors, that duty incumbent of the law for the ſaid entry; and ſicklike, aſſigning, transferring and diſponing, likeas his Majeſty, with conſent foreſaid, by theſe preſents,

ſents, aſſigns, transfers and diſpones in favours of the ſaid A. B. and his foreſaids, the haill writs and evidents, both old and new, of the ſaid lands and others above expreſſed, granted to, or any ways conceived in favours of the ſaid M. J. L. or any of his predeceſſors, cedents and authors, or any ways introduced in their favours, of, upon, or concerning the ſame, and all tacks, prorogations, decreets of plat and valuations, and other rights competent to the ſaid M. J. L. or his foreſaids, of the teind-ſheaves, and other teinds, both great and ſmall, as well parſonage as vicarage of the ſaid lands and others foreſaid, alſo fallen in his Majeſty's hands, and at his Majeſty's gift and diſpoſition, by reaſon foreſaid; and likeways conſtitutes them his Majeſty's aſſignees, in and to the haill mails, farms, kains, cuſtoms, caſualties, profits and duties of the ſaid lands and others foreſaid, with the pertinents, of the crop and year —— years, and all byrun reſts, and ſicklike, yearly and termly in all time coming, and all action, purſuit and inſtance competent, or that may be competent to his Majeſty in the premiſſes, (8) by virtue of the ſaid ſentence and doom of forfeiture, for now and ever; with full and ample power to the ſaid A. B. and his foreſaids, inſtantly to apprehend poſſeſſion of the ſaid lands and others foreſaid, and manor-place and office-houſes thereof, and to intromit with, uplift, aſk, crave and receive the mails, profits and duties above aſſigned, and to uſe and diſpoſe thereupon at pleaſure, and to call and purſue therefor, and for exhibition, production, implement, fulfilling and delivery of the ſaid writs and evidents, and that before any judge or judges competent, as accords, and to ſet and raiſe tenants, uſe warning, proſecute removing, and to do what elſe the ſaid M. J. L. might have done therein, at any time (9) before the ſaid ſentence and doom of forfeiture, or as his Majeſty might have done therein himſelf, by the laws of the ſaid ancient kingdom, at any time ſinſyne, and that freely, quietly, well and in peace, without any revocation, *&c.* And his Majeſty faithfully promiſes, *in verbo principis*, to ratify the ſaid preſentation, charter and ſeiſin to follow thereupon, in his Majeſty's next enſuing parliament; willing and requiring his Majeſty's eſtates of parliament, to ratify the ſame accordingly, and that the ſaid preſentation be extended in moſt ample form, with all clauſes needful. Given at

Nota, If other lands fall in the King's hands, as *ultimus hæres*, or by reaſon of baſtardy, it muſt alſo go by gift under the quarter ſeal, if the lands hold of a ſubject; and there is no difference in the ſtile, except the *modus vacandi*, which the writer may alter, as the caſe falls out at figure (6), thus: If, as *ultimus hæres*, ſay, "By reaſon of *ultimus hæres*, laws "and practique of the ſaid kingdom, and inherent privilege of his Majeſty's crown, "through the ſaid —— his deceaſe, in the month of —— —— years, without heirs "lawfully begotten of his own body, or any perſon within the tenth degree, who, *jure* "*ſanguinis*, may ſucceed to him, or any diſpoſition lawfully made by him thereof, at any "time in his lifetime." And if the lands fall in the King's hands by baſtardy, then ſay at the figure (6), "By reaſon of baſtardy, laws and practique of the ſaid kingdom, and "inherent privilege of the crown, through and by the ſaid —— his being born baſtard, "and deceaſing baſtard, without heirs lawfully begotten of his own body, to ſucceed him "therein, or lawful diſpoſition made by him of the ſame, at any time in his lifetime."

As thus ye have the *modus vacandi* deſcribed, ſo ye muſt take the words alongſt at the figure (7), thus: "The ſaid caſualty fell in his Majeſty's hands, by reaſon foreſaid."

At the figure (8), add, "As now having right thereto, the way and manner foreſaid."

At the figure (9), ſay, " At any time before his deceaſe, or as his Majeſty might have done " therein himſelf, at any time ſince, by the laws and practique of this kingdom."
And then, all from the (9) figure, and thereafter follow forth the ſtile.

SUMMONS *of* ERROR, *being of a Service of a younger Brother in Lands, and of the Infeſtment following thereupon, whilſt there was an elder Brother to ſucceed, and who was abroad for ſome Years, but returned, and called all in queſtion.*

CAROLUS Dei gratia, Magnæ Britanniæ, Franciæ, et Hiberniæ rex, fideique defenſor, dilectis noſtris A. B. ——, et veſtrum cuilibet, conjunctim et diviſim, nuntiis et vicecomitibus in hac parte reſpective, ſpecialiter conſtitutis, ſalutem, vobis præcipimus et mandamus, quatenus legitime et coram teſtibus ſummoneatis Hectorem, &c. A. B. de —— C. D. de —— H. F. de —— A. L. de —— G. D. de —— perſonas adhuc in vita exiſtentes, ſuper deſervitione cujuſdem, brevis vel brevium capellæ noſtræ impetratorum, ad inſtantiam quondam W. W. fratris quondam J. W. filii legitimi ſenioris quondam D. W. de —— per —— quam deſervitionem dictus quondam W. W. eſt deſervitus tanquam verus legitimus et propinquior hæres præfati quondam J. W. in totis et integris terris, aliiſque ſubtus ſcriptis, cum pertinentiis modo ſubſcripto; nec non J. et A. W. filios et hæredes, ſaltem hæredes apparentes dicti quondam W. W. eorum patris, pro eorum intereſſe, ac etiam A. M. de —— in cujus favorem, totæ et integræ terræ aliaque ſubtus ſcripta, cum pertinentiis, per dictum quondam W. W. tanquam pretendentem hæredem antedictum, venditæ et diſpoſitæ fuerint: Et qui deſuper in iiſdem infeodatus fuit, modo ſubtus ſpecificato, etiam pro ſuo intereſſe, (*leave blank for more perſons names, if need beis*) A. R. unum balivorum burgi de —— adhuc in vita tempore, pretenſæ deſervitionis ſubtus mentionatæ, coram quo, et J. quondam A. H. præpoſito, et L. R. T. M. duobus aliorum balivorum dicti burgi pro tempore, dicta pretenſa inquiſitio ſubſcripta, modo ſubtus mentionato, facta fuit, A. M. preſentem præpoſitum dicti noſtri burgi, L. R. J. F. et dictum A. R. balivos ejuſdem, D. F. notarium publicum, ac communem clericum dicti noſtri burgi, Dominum J. S. de —— militem, directorem noſtræ cancellariæ, pro ſuo intereſſe, (*leave blank for more names*) modo ſubſcripto, *viz.* Quotquot eorum exiſtunt infra hoc regnum, tempore eorum citationis perſonaliter, vel apud eorum loca habitationis, ſuper viginti uno dierum, et quotquot eorum exiſtunt extra dictum regnum noſtrum, tempore dictæ eorum citationis, per publicam proclamationem apud crucem foralem burgi noſtri de Edinburgh, et littus, vulgo nuncupatum lie pier et ſhoar de Leith, ſuper premonitione, et in ſpatium ſexaginta dierum; nec non tutores et curatores prædictarum perſonarum, ſaltem quot ipſorum ſunt minores, omneſque alios intereſſe habentes, vel habere pretendentes in materia et cauſa ſubſcripta, per publicam proclamationem apud crucem foralem burgi noſtri de —— aliaque loca neceſſaria, coram nobis, noſtriſque concilii et ſeſſionis Dominis apparere, apud Edinburgum, vel ubi pro tempore reſidere contigerint —— die menſis —— proximi futuri, ſi dies

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illa juridica fuerit, vel proxima die juridica inde ſecuta, hora cauſarum, cum continuatione dierum, ad inſtantiam dilecti et confiſi noſtri conſiliarii domini J. N. de D. noſtri advocati, pro noſtro intereſſe in actione et cauſa ſubſcripta; nec non. ad inſtantiam J. W. fratris immediati junioris, et hæredis deſerviti et retornati dicti quondam Jo. W. ſui fratris, et W. W. fratris dicti Ja. W. in cujus favorem, præfatus Ja. W. dictas terras, aliaque reſpective ſubſcripta, vendidit, alienavit, et hæreditarie et irredeemabiliter diſpoſuit, ſecundum tenorem literarum alienationis et diſpoſitionis, in iiſdem procuratoriam reſignationis continentium, per dictum Ja. W. prænominato W. W. de eiſdem factæ et conceſſæ, de dato —— die menſis —— anno —— Et virtute cujuſquidem diſpoſitionis, literæque procuratorialis inibi contentæ, et reſignationis deſuper ſequentis, prædictus W. W. in terris, aliiſque ſubtus ſpecificatis —— die menſis —— tunc ſequentis, legitime et publice infeodatus fuit, reſpondendum, at ideo, indubitatum jus et intereſſe habentium, dictam deſervitionem et retornatum, cum omnibus deſuper ſecutis retractandi et retornandi, omniaque infeofamenta exinde ſequentia, nimirum, præfatas perſonas, tutores curatoreſque totquot earum ſunt minores, omneſque alios intereſſe habentes ſeu pretendentes, adferendum ſecum exhibendum et producendum coram nobis, noſtriſque concilii et ſeſſionis Dominis, die, loco, horaque cauſarum ſupra ſcriptis, cum continuatione dierum, dictam pretenſam deſervitionem factam in prætorio dicti burgi de —— coram dicto quondam A. H. præpoſito ejuſdem, dicto quondam J. D. D. R. et A R. balivis ejuſdem pro tempore, in curia burgali ibidem tenta —— die menſis —— anno —— per dictos inquiſitores, et quondam W. R. in —— A. B. in —— et O. D. burgenſes dicti burgi de —— tres perſonas ſuper dicta deſervitione exiſtentes nunc vita defunctas, in qua inquiſitione predicti inquiſitores jurati, et judicio remoti dixerunt et deſervierunt, quod præfatus quondam W. W. eſt verus legitimus et propinquior hæres prænominati quondam J. W. ſui fratris, de, et in omnibus et ſingulis, (*hic inſerre terras in quibus deſervitus fuit, ut in deſervitione, vel retornatu,*) et quod dictus J. W. obiit ultimo veſtitus et ſaſitus ut de feodo, ad fidem et pacem noſtram in iiſdem, et quod eſt legitime ætatis, et quod dictæ terræ aliaque ſupra ſcripta, cum pertinentiis, de nobis noſtriſque ſucceſſoribus in libero burgagio tenentur, pro ſervitio burgagio debito et conſueto, prout in dicta deſervitione, de dato ſupra ſcripto, latius continetur; unacum retornatu, ſi qui ſit, inde ſequente, et preceptis ſaſinæ, ſi quæ ſint, deſuper ſequentibus, et inſtrumento ſaſinæ dicti quondam W. W. tanquam pretendentis hæredis antedicti de prædictis terris aliiſque ſupra recitatis, de dato —— die menſis —— anno —— (*leave a blank for farther production*) unacum toto proceſſu dictæ deſervitionis, plenariis integriſque fundamentis et warrantis, ſuper quibus eadem proceſſit et radicata eſt, unacum omnibus aliis ſaſinis, evidentiis, ſecuritatibus ac titulis, in prædicta curia et inquiſitione per præfatum quondam W. ſuoſque actornatos, ſeu procuratores ejus nomine, coram prefatis perſonis aſſiſæ productis ad pretenſa dicti quondam W. W. clamea probanda et inſtruenda, una etiam cum pretenſis literis alienationis ſeu diſpoſitionis per dictum quondam W. W. prefato A. M. de, et ſuper terris aliiſq; ſupra ſpecificatis cum pertinentiis factis et conceſſis, vel pretenſo contractu alienationis inter illos confecto, penes hæreditariam diſpoſitionem et alienationem earundem in ſe, procuratoriam reſignationis continente, pro reſignatione hujuſmodi

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in manibus dictorum præpoſiti et balivorum dicti burgi, in favorem, proque noſtro novo infeofamento et ſaſina, ut moris eſt, infra burgum de eiſdem, dicto A. M. hæredibus ſuis et aſſignatis inibi mentionatis deſuper dando et conficiendo, de dato —— die menſis —— anno —— necnon cum inſtrumento ſaſinæ deſuper in favorem dicti A. M. ſequente, de dato —— die menſis —— anno —— ſub ſigno et ſubſcriptione præfati D. F. notarii publici, ac prædicti burgi de —— clerici, (*hic vacuum reliquendum, ſi opus ſit,*) unacum omnibus et ſingulis aliis diſpoſitionibus, contractibus, ſaſinis, aliiſque juribus, titulis, et ſecuritatibus quibuſcunq; in favorem dictarum perſonarum defendentium, vel eorum prædeceſſorum ſeu auctorum, de prædictis terris aliiſque præſcriptis, cum pertinentiis conceſſis, de datis, tenoribus, et contentis ſupra ſpecificatis, ſeu de quibuſcunque aliis datis, tenoribus, vel contentis exiſtunt, ad videndum et deliberandum per dictos noſtros Dominos concilii et ſeſſionis, et eaſdem audiendum et videndum reduci, retractari, reſcindi, caſſari, annullari, et per decretum dictorum Dominorum concilii et ſeſſionis, decerni et declarari ab initio fuiſſe, et nunc, omnique tempore a futuro fore nullius roboris, valoris, efficaciæ vel effectus, cum omnibus deſuper ſecutis vel ſequendis, necnon civiliter et legitime improbari, per teſtes inſertos, et omni alio modo quo de jure, tanquam falſas, fictas, fabricatas, ſimulatas, effictas et machinatas, per dictos reos, aut unum, vel alterum eorum, ac dictas perſonas ſuper præfata inquiſitione exiſtentes, ad audiendum et videndum, per decretum antedictum, ſeipſos fraudem et temere juraſſe ſuper aſſiſa commiſiſſe; ac propterea, pro eorum manifeſto, publico et voluntario errore, pœnas temere jurantium ſuper aſſiſa incurriſſe, et ideo in eorum corporibus et bonis, per leges, praxin et conſuetudinem hujus regni puniri, in terrorem aliorum talia in poſterim committere, pro ſuadentibus rationibus et cauſis ſubtus ſcriptis: *Primo*, Quia de jure et praxi hujus regni noſtri, omnis deſervitio lata et deducta per quam aliquis deſervitur, tanquam verus legitimus et propinquior hæres predeceſſori ſuo defuncto in terris aliiſque in quibus obiit ultimo veſtitus et ſaſitus, qui tamen non eſt verus legitimus et propinquior hæres in iiſdem, ſed exiſtit alius verior, mage legitimus, prior et propinquior hæres dicto prædeceſſori ſuo defuncto, in dictis terris, quam ille, qui ita deſervitus eſt, eadem de jure nulla eſt reduci, debet et declarari fuiſſe ab initio, eſſe, et in futurum fore, nullius valoris, cum omnibus inde ſequentibus, et perſonæ ſuper tali deſervitione exiſtentes commiſerunt fraudem et temere jurantium ſuper aſſiſa; et præterea, pro eorum manifeſto, publico et voluntario errore, pœnas temere jurantium ſuper aſſiſa incurrerunt, et ideo in eorum corporibus et bonis, per leges, praxin et conſuetudinem dicti regni noſtri, puniri debent, ſed ita eſt per prædictam deſervitionem, præfatus quondam W. W. deſervitus fuit, tanquam verus, legitimus et propinquior hæres prefati quondam J. W. ſui fratris, de omnibus et ſingulis prædictis terris aliiſque ſupra ſcriptis, cum pertinentiis, qui tamen W. W. revera non fuit illius verus legitimus et propinquior hæres, ſed extitit, et adhuc exiſtit, alius verior et mage legitimus prior et propinquior hæres dicti quondam J. W. in dictis terris, *viz.* dictus Ja. W. qui eſt frater ſecundus et immediate junior dicti quondam J. W. et ſic verus legitimus prior et propinquior hæres dicti quondam J. W. ſuo fratri immediate ſeniori in dictis terris, et ille in iiſdem ſuccedit et ſuccedere debet,

ber, ante dictum quondam W. W. qui fuit frater ſolum tertius genitu dicti quondam J. W. et ſic frater immediate junior dicti Ja. W. et remotior hæres, quam præfatus Ja. W. qui eſt frater ſecundus immediate junior et propinquior hæres, ut prefertur, dicti quondam J. W. inter dictum J. W. et W. W. interpoſitus et interjectus in quantum quatuor fuerunt fratres, *viz.* dictus quondam J. W. dictus Ja. W. dictus W. W. et dictus Wa. W. qui quidem dictus J. W. frater ſenior obiit ultimo veſtitus et ſaſitus in dictis terris, et ſic denominatus Ja. W. exiſtens frater ſecundus genitu eſt illius ſolus, verus, legitimus et propinquior hæres in iiſdem, et ille in illis ſuccedit et ſuccedere debet; et ultra, eſt ille hactenus et debite et legitime deſervitus et retornatus hæres in generali, ut dictum eſt; et ſic nunquam de jure prædictus quondam W. W. frater tertius genitu dicti quondam J. W. ei hæres in dictis terris deſerviri potuit dicto J. W. tunc extito, et adhuc exiſtente, neque de jure potuerunt dicti præpoſitus et baillivi de ——— dictum breve ad inſtantiam prefati W. W. impetratum deſervire, ac proinde dicta prætenſa deſervitio eſt de jure nulla, et eadem, unacum dicto prætenſo retornatu, præceptis et inſtrumentis ſaſinæ inde ſequentibus, aliaque ſcripta ſupra ſpecificata, quæ exhiberi, produci, et reduci petuntur, ut recitatur, reduci et retractari debent, cum omnibus inde ſecutis vel ſequendis, ac dictas perſonas ſuper dicta inquiſitione et deſervitione exiſtentes, fraudem commiſiſſe et temere ſuper aſſiſa juraſſe decerni et declarari debet; et propterea, pro eorum manifeſto, publico et voluntario errore, pœnas temere jurantium ſuper aſſiſa incurriſſe, et ideo in ſuis corporibus et bonis puniri debent, (*hic vacuum relique pro aliis rationibus, ſi quæ ſint.*) Et igitur, dicta prætenſa deſervitio retornatus, inde ſequens ac clameum, coram dictis judicibus ſuper aſſiſa exhibitum, unacum omnibus ſcriptis, evidentiis, documentis et ſecuritatibus per dictum quondam W. W. vel ſuos procuratores ſeu actornatos, exhibitis et productis, ad dictum clameum inſtruendum, verificandum et probandum, et dictum prætenſum præceptum ſaſinæque inſtrumentum, præfato quondam W. W. facta, et dictæ prætenſæ literæ alienationis et diſpoſitionis, vel prædictus prætenſus contractus alienationis et procuratoria reſignationis in ſe contenta, et dictum inſtrumentum ſaſinæ in favorem prænominati A. M. deſuper ſequens ——— aliæque evidentiæ, ſecuritates et tituli inde ſequentes, reduci, retractari, reſcindi, caſſari, annullari, decerni, et declarari debent, per decretum prædictorum Dominorum noſtri concilii et ſeſſionis ab initio fuiſſe, nunc, et in poſterum fore, nullius roboris, valoris, efficaciæ, ſeu effectus, cum omnibus deſuper ſequentibus vel ſequendis; necnon civiliter et legitime improbari per teſtes inſertos, et omni alio modo quo de jure, et decerni nullam fidem facere in judicio, nec extra judicium omni tempore a futuro, tanquam falſas, fictas, fabricatas, ſimulatas, effictas et machinatas, per eos, vel unum vel alterum eorum; et præfatæ perſonæ ſuper dicta aſſiſa, in eorum perſonas et bonis puniri decerni debent, tanquam temere jurantes ſupra aſſiſa, pro cauſis et rationibus ſupra ſcriptis; alioqui rationalem cauſam in contrarium alligare, quare eadem non ita facta ſit; cum certificatione iis, ſi deficient, noſtri Domini concilii et ſeſſionis prædicti in cauſa ſupra ſcripta, volunt procedere et in eadem, reducere, decernere, improbare, et declarare, modo ut prefertur, etiamque volunt. *Secundum juſtitiam*, &c. Præterea ad reſpondendum ad inſtantiam prædictorum actorum in dicta materia in quantum de lege tenentur;

tenentur; insuper quod legitime summoneatis, mandetis, atque præcipitatis —— ad comparendum coram nobis, dictisque Dominis nostri concilii et sessionis, die et loco prædictis, hora causarum, cum continuatione dierum, ut verum et fidele testimonium perhiberent, agerent, in quantum sciunt, vel interrogati fuerunt in dicta materia, sub omni extrema pœna et periculo quæ desuper sequi poterint, prout nobis desuper respondebitis; ad quod faciendum, vobis et vestrum cuilibet, conjunctim et divisim, vicecomitibus nostris in hac parte specialiter constitutis, nostram plenariam, per præsentes literas committimus potestatem, per vos debite executas et indorsatas, rursus latori reddentes. Datum sub testimonio nostri magni sigilli apud Edinburgum —— die mensis —— anno Domini millesimo sexcentesimo sexagesimo septimo, regnique nostri anno ——

Ex deliberatione Dominorum concilii.

Nota, Reduction of retours, being of such hazard to the members of inquest, it is statuted, Parl. 5. *anno* 1494, *cap.* 57. K. Ja. IV. That they shall not be reducible but within three years after the date, so as to infer error against the inquest; albeit they may be reduced, as to render the retours null in themselves, at any time within twenty years after they were deduced, Parl. 22. *cap.* 13. Ja. VI. *anno* 1617, being majors, and within the kingdom; but this act looks only forward, but not as to retours before, which only prescribe by the general act of prescription, Parl. 1617, *cap.* 12. and so decided by the Lords, November 28th 1665, Younger *contra* Johnston. And it is to be observed, that, by the said acts, acquisitions made before then, are reserved, and not comprehended.

REPROBATORS

Pass only the quarter seal, and sustained, though not protested for, at the examination of the witnesses, but only before sentence; July 30th 1668, Laird of Milton *contra* Lady Milton, being in a cause of divorce.

Not admitted to be added after a reduction was filled up, and discussed in a divorce, but reserved a special action of reprobator; 25th February 1669, *inter easdem personas*. One who acquired a liferent from a husband, and which would fall back to the wife by the divorce; who, compearing before the commissaries to object against the witnesses, and to interrogate them, not admitted, may pursue a reprobator, albeit, in a reduction, he got the witnesses re-examined; but their own testimonies of corruption not admitted to enervate their former testimonies; as to which reprobator, and what objections competent against the witnesses, and what not, is decided, January 31st 1671, *inter easdem personas*. Reprobators found relevant, being libelled upon instructing or prompting of witnesses, without necessity, to alledge that the witnesses undertook, or deponed conform, and that *in odium corrumpentis*, without inferring any blemish upon the witnesses so prompted, who consented not to swear falsly. *Ibid.*

Reprobators found relevant, upon libelling of corrupting of witnesses, upon giving or promising good deeds, more than would be suitable for their charge. *Ibid.*

Reprobators,

Reprobators, upon corrupting of witneſſes, by giving or promiſing bribes, or prompting witneſſes thereupon, was found only probable by writ or oath of the parties, who adduced the witneſſes after decreet, and not by witneſſes, unleſs the reprobators had been purſued before decreet, proceeding upon the teſtimonies of the witneſſes quarrelled; but, upon a farther hearing, recalled, and witneſſes above exception were found competent, whether before or after ſentence, and the witneſſes were ordained to be condeſcended upon. The firſt interlocutor was, the 14th of July 1671, and the ſecond the 20th of February 1672, *inter eaſdem perſonas*. *Vide* Stair's deciſions, new Inſtitutions.

The reaſon why I ſet down theſe deciſions, is, that when a reduction of a decreet of divorce was purſued, and the ſummons under the ſignet, the Lords would not ſuſtain it, not being by way of reprobator, and under the quarter ſeal. And ſo much to prevent the like miſtake for the future.

TUTORY-DATIVE *from his Majeſty and Exchequer, to a Perſon to govern and manage a Minor's Eſtate, being within the Years of Pupillarity, and paſſes only the Quarter Seal, otherways called the Teſtimony of the Great Seal.*

OUR SOVEREIGN LORD conſidering that it belongs to his Majeſty of right, to provide tutors to perſons that be minors, and within the years of pupillarity, (where the parents die, not nominate tutors, or, being nominate, deceaſe, or will not accept of the office; or where the mother is nominate tutrix, and afterwards marries; or where the neareſt agnate does not purſue his right of tutory *jure ſanguinis*, within year and day after the father's deceaſe;) and that the deceaſed A. A. maltman in L. having, before his deceaſe, nominated J. R. his ſpouſe to be tutrix to J. A. his only lawful daughter, the ſaid office is now over and ſuppreſſed by the ſaid J. R. the tutrix her after marriage; and his Majeſty being unwilling the ſaid J. A. the minor, or her eſtate, ſhould thereby ſuffer prejudice in the leaſt, but that rather a timeous remedy be had, and any loſs that way prevented: And likeways conſidering, that, after lawful citation given to two of the neareſt of kin on the father's ſide, and as many on the mother's ſide, to the ſaid J. A. the minor, to compear before the Lords of Our treaſury and exchequer, at a certain day bygone, to hear and ſee a tutor given to her, and to object in the contrary, if any juſt ground or cauſe for it; and with certification, in manner at length ſpecified in the ſummons raiſed thereanent, and executions thereof produced in preſence of the ſaid Lords, and by them conſidered; and that no compearance or objection was made in the contrary: Therefore, Our Sovereign Lord, out of his pious and fatherly care over all minors, with the ſpecial advice and conſent of ——— (*here inſert the conſents of exchequer, according to the conſtitution thereof for the time, and then ſay*) ordains a letter of tutory-dative to be paſſed and expede under his Majeſty's quarter ſeal, otherways called the teſtimony of the great ſeal, in due and competent

form, making, conſtituting, nominating and appointing, likeas his Majeſty, with conſent foreſaid, by theſe preſents, makes, conſtitutes, nominates and appoints G. A. maltman in L. tutor-dative and adminiſtrator of the law to the ſaid J. A. during the haill ſpace and years of her pupillarity, for managing and governing of her eſtate, both real and perſonal, either preſently appertaining and belonging to her, or that hereafter may fall, accreſce, appertain and belong to her, by the deceaſe of any of her predeceſſors, kindred and relations, or any other manner of way whatſoever; with full power to the ſaid G. A. as tutor foreſaid, to act and do in the ſaid pupil's affairs, and to govern and manage the ſame, and adminiſtrate therein to the beſt, and to the ſaid pupil's utility, profit and advantage, during the ſaid ſpace, ſicklike, and as fully, freely and abſolutely, in all reſpects, and to all intents and purpoſes, as any other tutor-dative of the law has done, does, or may do in the like caſes and office; requiring hereby all perſons concerned to anſwer, obey, and make payment to him, as tutor foreſaid, accordingly, he always finding ſufficient caution, before expeding of this preſent tutory, for making compt, reckoning and payment, after elapſing and expiring thereof, to his ſaid pupil, and her curators, of his intromiſſions, omiſſions and commiſſions, as accords of the law; and alſo giving his oath *de fideli adminiſtratione*, and giving up inventory of the minor's goods and eſtate, conform to, and in the terms of the act of parliament made thereanent in all points. And that the ſaid letter of tutory be extended in moſt ample form, with all clauſes needful, and in form of chancery. *Given at*

The laſt ſubject-matter I reſolve to treat upon, in this whole ſyſtem, is that of a quinquennial poſſeſſion, founded upon the act of parliament, as to perſons forfeited, abſtracting of their writs and evidents; the prejudice thereby ſuſtained by the King and his donatar, and the remedy in that caſe provided, as well as to bygones as future; and which is clearly ſet down, according to the ſaid act of parliament, in the terms and method following. And, firſt, I begin with the petition to his Majeſty's ſecret council, to whom the addreſs muſt be made, and who, by their deliverance and act thereupon paſt, ordain the director of the chancellary, and his deputes, to direct, emit and iſſue forth a commiſſion under the teſtimony of his Majeſty's great ſeal, otherways called the quarter ſeal, directed to ſuch perſons as the council appoint, as ſheriffs in that part, to determine and cognoſce in what lands, heritages and others, wherein the perſon forfeited was in actual poſſeſſion five years immediately preceding the proceſs and ſentence of forfeiture; and this being retoured by an inqueſt of fifteen perſons, makes a good right to the King, or his donatar, even albeit the writs and evidents be abſtracted.

PETITION

PETITION *by the Donatar of the Eſtate forfeited to his Majeſty's moſt honourable Privy Council, founded upon the Act of Parliament.*

To my Lord High Chancellor of Scotland, and remanent Lords of his Majeſty's moſt honourable Privy Council, the Petition of A. *Earl of* ——

Humbly ſheweth,

THAT where by the ſecond act of the ninth parliament of King James VI. of ever bleſſed memory, holden at Edinburgh the 22d day of Auguſt 1584, it is ſtatute and ordained, That all lands, lordſhips, baronies, annualrents, mills, multures, fiſhings, tenants, tenandries, and ſervices of free tenants, and other heritages whatſoever, which have been, or thereafter ſhould be peaceably bruiked and poſſeſſed by whatſoever perſons forfeited, or that thereafter ſhould be forfeited for crimes of treaſon and leſe-Majeſty, committed, or that thereafter ſhould be committed againſt his Majeſty and his ſucceſſors, or by them to whom our Sovereign Lord and his ſucceſſors ſhould ſucceed, by reaſon of the forfeiture of their neareſt heirs, as their heritage, by labouring the ſame with their own goods, ſetting the ſame to tenants, and uplifting the mails thereof as their heritage; and ſo reputed, holden and eſteemed heritable poſſeſſors thereof, by the ſpace of five years, immediately preceding the deceaſe of the perſons to whom our ſaid Sovereign Lord ſhould or might ſucceed, through the forfeiture led, or to be led againſt their neareſt heirs; that all and ſundry the ſaid lands, lordſhips, baronies, annualrents, tenants, tenandries, and ſervice of free tenants, mills, multures, fiſhings, and other heritages whatſoever, has appertained, and ſhall appertain to our ſaid Sovereign Lord and his ſucceſſors, has become, and ſhall become in their hands, as eſcheat, to be diſponed and uſed by them as their property thereafter in all time coming, ſo that thereafter no queſtion ſhould be moved to his Highneſs and his ſucceſſors, nor yet to the perſons which already obtained, or thereafter ſhould obtain heritable right of the ſaid lands, lordſhips, annualrents, and others above-ſpecified, by their diſpoſition, notwithſtanding that they be not able to ſhew, nor produce in judgment, the heritable right and title thereof, or contracts, renunciations, and other ſecurities made thereanent to the perſons forfeited, or to be forfeited, as ſaid is, or their predeceſſors: And by which act it is appointed, that for proving of the ſaid five years poſſeſſion, commiſſion ſhould be granted under the teſtimonial of the great ſeal, in due and competent form, to ſuch perſons as his Majeſty, with advice of the Lords of his ſecret council, ſhould find moſt meet and expedient, as ſheriffs in that part, to take cognition by a condign aſſize of the ſheriffdoms where the lands ly, or others leaſt ſuſpected, who beſt know the verity, what lands, lordſhips, and what heritages were bruiked and poſſeſſed by the ſaid perſons convicted, or to be convicted of treaſon, and were bruiked by them in manner foreſaid, as heritable poſſeſſors thereof, ſo commonly holden, reputed and eſteemed, by the ſpace of the ſaid five years immediately preceding

the proceſs and ſentence of forfeiture led and to be led againſt them, which were, or ſhould happen to be thereafter convicted of treaſon, as ſaid is, and to call all parties having or pretending intereſt; which perſons of aſſize ſhall give their final determination thereupon before the judge, who ſhall interpone his decreet and authority thereto, and thereafter ſhall retour the ſame to his Highneſs's chancellary, under the ſeals of the ſaid aſſize, where the ſame ſhall remain *ad perpetuam rei memoriam*, and ſhall in all time thereafter make as full faith in judgment, as outwith, and be of as great ſtrength, force and effect to our Sovereign Lord and his ſucceſſors, and others having right, by their diſpoſition, for bruiking of the ſaid lands, lordſhips, heritages and annualrents, as if the heritable infeftments, charters and ſeiſins thereof, made to the ſaid perſons forfeited, or to be forfeited, as ſaid is, or their predeceſſors, were ſhown and produced in judgment, in manner more fully ſpecified in the ſaid act of parliament, as the ſame in itſelf more copiouſly is comprehended. And I being now conſtitute his Majeſty's donatar of the E. of A. of which the lands and foreſt of B. are a part, formerly poſſeſſed by umquhile A. conform to the gift granted to me thereof, dated the —— day of ——,

May it therefore pleaſe your Lordſhips, to ordain the director of his Majeſty's chancellary, and his deputes, to direct, emit and iſſue forth a commiſſion under the teſtimony of his Majeſty's great ſeal, to ſuch perſons as your Lordſhips ſhall pleaſe nominate and appoint, or any two of them, as ſheriffs in that part of the ſheriffdom of ——, with full and ample power to them, or any two of them, to meet at J. the —— day of —— next to come, and thereafter to appoint their own times and places of meeting, and to fix and hold courts, create clerks, officers, and other members of court needful, and to iſſue forth precepts for citing all parties having or pretending to have intereſt, and an inqueſt; and ſuch witneſſes as ſhall be found neceſſary, abſents to amerciate, unlaws and amerciaments to uplift and exact, and every other thing requiſite and lawful to do and perform, for trying if the ſaid lands and foreſts of B. which is a part of the ſaid E. of A. was poſſeſſed by the ſaid late M. of A. by the ſpace of five years immediately preceding his proceſs and doom of forfeiture; and that your Lordſhips would ordain the ſaid perſons to be appointed commiſſioners and ſheriffs in that part, as ſaid is, to make report thereof to your Lordſhips, and to be retoured accordingly to his Majeſty's chancellary, conform to, and in the terms of the ſaid act of parliament, in all points, and your Lordſhips anſwer.

This petition being preſented to his Majeſty's privy-council, they paſs an act thereupon, narrating the petition, and granting the deſire thereof, according to the petitory part of the ſame; and withal, they nominate ſuch perſons as they think fit, ſheriffs in that part, *ut ſupra*: And, in the preciſe terms of the act of council, the director, or his depute, give out the commiſſion under the quarter ſeal.

Nota,

Nota, It is out of my road, as clerk to the ſignet, to ſet down the donatar's claim, precept for citing inqueſt and witneſſes, and all parties having, or pretending to have intereſt, acts of court, and adjournments from time to time, and way and manner of their procedure, officers executions, and the like, being only proper for the clerk of court. But I conceive it neceſſary, to ſet down the judges report or inquiſition, for your better information.

REPORT *of the Inqueſt that paſſed on the ſaid Cognition and Trial, to be retoured to the Chancellary.*

HÆC inquiſitio facta fuit in prætorio burgi de J. —— die menſis —— anno Domini —— regnique S. D. N. Caroli ſecundi, dei gratia, Magnæ Britanniæ, Franciæ et Hiberniæ regis, fideique defenſoris, anno ——, coram honorabilibus viris ſubſequentibus, viz. Domino C. C. de A. C. C. juniore de A. A. M. de eodem, et A. C. de J. vicecomitibus in hac parte vicecomitatus de A. per commiſſionem dicti S. D. N. regis, ſub teſtimonio ſui magni ſigilli, ex deliberatione dominorum ſecreti concilii, ad effectum ſubtus ſcriptum ſpecialiter conſtitutis, per hos honorabiles, probos, et fideles homines patriæ ſubtus mentionatos, viz. (*here the fifteen perſons of inqueſt were inſert, and then*) qui jurati, dicunt, magno ſacramento interveniente, Quod omnes et ſingulæ terræ et forreſta de B. perprius poſſeſſæ fuerunt per A. nuper M. de A. quodque dictus M. eſtimabatur et reputabatur hæreditarius poſſeſſor earundem per ſpatium quinque annorum, (ſententiam foris facturæ contra illum datam in parliamento hujus regni —— die menſis —— anno —— immediate præcedentem,) idque tanquam forreſta, partes et pertinentes comitatus de A. nunc vero ad A. comitem de A. ſpectantes, tanquam donatorem præfati S. D. N. regis. In cujus rei teſtimonium, ſigilla quorundam eorum, qui dicta inquiſitione intererant, unacum ſubſcriptione manuali N. O. notarii publici, clerici dictæ curiæ, preſentibus ſunt appenſa, anno Domini, die menſis, regiſque regni, et loco ſupraſcriptis.

Nota, The clerk of court only ſubſcribes, and the act of court, and verdict of the inqueſt, ſubſcribed by the chancellor, is his warrant; and being retoured *ut ſupra*, makes a good right to the donatar.

Nota, After this work had its period, by new laws, there were ſome alterations made, and to great advantage; and for the good and eaſe of the lieges, in relation to transferences, and ſhortening of proceſſes, that procuratories of reſignation, and precepts of ſeiſin, die not with the granter thereof, as perſonal factories do, but the acquirer or creditor, if granted for ſecurity of debt, may reſign by virtue of the procuratory, or take ſeiſin by virtue of the precept; yea, the acquirer or creditor being dead, the heir ſerved and retoured, may have the reſignation made in his favours, or may take ſeiſin upon the precept, in the ſame way and manner as might have been done, were the diſponer, debitor, acquirer and creditor alive. As alſo, an executor confirming a moveable debt due to a perſon deceaſed, or an heir ſerved and retoured to a perſon, to whom there is an heritable debt due, may have ſummar horning, and other execution and diligence upon theſe bonds, contracts, &c. being regiſtered, and the debitors alive; and ſome other laws to this purpoſe, which prevents many pleas and actions, and holds in vaſt expences. And the ſtiles being but ordinary, and without difficulty, I leave them to the care of ſuch as may be employed therein.

END *of the* SIXTH *and* LAST PART.

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FINIS.

G. G. A. A.